

No. 12602

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United States  
Court of Appeals  
For the Ninth Circuit.

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B. M. CRENSHAW,

Appellant,

vs.

UNITED STATES OF AMERICA,

Appellee.

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Transcript of Record

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Appeal from the United States District Court,  
for the District of Montana.

**FILED**

AUG 30 1950

**PAUL P. O'BRIEN,**  
CLERK



No. 12602

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United States  
Court of Appeals  
For the Ninth Circuit.

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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in *italic*; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in *italic* the two words between which the omission seems to occur.]

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NAMES AND ADDRESSES OF ATTORNEYS  
OF RECORD

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Bozeman, Montana,

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In the District Court of the United States for the  
District of Montana, Helena Division

No. 444

UNITED STATES OF AMERICA,

Plaintiff,

vs.

B. M. CRENSHAW,

Defendant.

### COMPLAINT

The United States of America alleges:

#### I.

That this action is brought in the name of the United States of America under and pursuant to the Housing and Rent Act of 1947, as amended, (50 U.S.C.A. 1881-1906 and P.L. 31, 81st Congress, 1st Session) which is hereafter referred to in this Complaint as the Act.

#### II.

That jurisdiction of this action is conferred upon this Court by Sec. 205 and 206(b) of the said Act and Title 28 U.S.C.A. 1345.

#### III.

That the defendant, B. M. Crenshaw, residing at 6 West Babcock, Bozeman, Montana, has been and is the landlord and operator of a certain controlled multiple unit housing accommodation located at 6 West Babcock, Bozeman, Montana, and has at the times mentioned herein rented and offered for rent

certain of the units within such housing accommodations.

#### IV.

That in the judgment of the Housing Expediter the defendant has engaged in acts and practices which constitute a violation of Sec. 204 of the said Act in that the defendant has charged the persons named in Schedule "A" attached to this Complaint, which is made a part hereof, the amounts specified in such Schedule as [3\*] rentals for the periods and for the units within the accommodation located at 6 West Babcock, Bozeman, Montana, when the maximum rental as established pursuant to the said Act was no more than that set forth in the said Schedule which resulted in the overcharges therein computed.

#### V.

That more than thirty days have expired since the date of any of the rental charges set forth in the said Schedule "A," and none of the persons so charged have commenced any action therefor against the defendant herein pursuant to Sec. 205 of the Act within such thirty-day period, or at all.

#### VI.

That of the total overcharges alleged in the said Schedule "A," \$1,082.50, occurred within the year last past prior to the commencement of this action.

Wherefore, the plaintiff prays:

1. For a permanent and temporary injunction,

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\* Page numbering appearing at bottom of page of original Transcript of Record.

restraining and enjoining the defendant, together with his agents and servants, from charging or attempting to charge rentals in excess of the maximum rentals as prescribed under and pursuant to the Housing and Rent Act of 1947, as amended, for any of the housing accommodations operated by the defendant at 6 West Babcock, Bozeman, Montana, or from otherwise violating any provisions of this Act or any regulation, order or requirement made under or pursuant to said Act.

2. For an order of the Court directing the defendant to pay to those persons who have been charged rentals in excess of the maximum rentals as prescribed under and pursuant to the said Act, to-wit:

Name	Amount
C. A. Labbe.....	\$ 45.00
W. H. Westfall.....	50.00
R. G. Martin.....	175.00
L. W. Konecki.....	300.00
V. Cameron.....	25.00
K. Davis.....	325.00
L. S. Mann.....	37.00
(L. Reeves	
(L. Ketterer.....	120.00
R. H. Henke.....	180.00
	<hr/>
	\$1257.00

And if the Court find that some or any of the foregoing persons, or any of them, be not entitled in equity and good conscience to the refunds, then the

same be paid over to the Treasurer of the United States all for the purpose of enforcing the said Act.

3. For three times the amount of the overcharges that have occurred within the last year, to-wit: \$3247.50, provided, however, that if restitution be granted pursuant to Paragraph 2 of this prayer and for such overcharges that have occurred within such last year, that the plaintiff will waive such amount of this prayer as restored to the tenants.

4. For the costs of this action.

5. For such other and further relief as the Court may deem just and equitable.

Dated at Seattle, Washington, this 21st day of July, 1949.

/s/ C. E. KNOWLTON, JR.,

Attorney, Office of Housing  
Expediter. [5]



# SCHEDULE "A"

Landlord—B. M. Crenshaw

Premises—6 West Babcock  
Bozeman, Montana

Unit	Tenant	Period	Chg per Mo.	Max. per Mo.	Overcharge
Apt. #7	C. A. Labbe	5-1-49/6-30-49—2 Mos.	\$65.00	\$42.50	\$45.00
Apt. #8	W. H. Westfall	5-1-49/6-30-49—2 Mos.	75.00	50.00	50.00
Apt. #9	R. G. Martin	12-1-48/6-30-49—7 Mos.	75.00	50.00	175.00
Apt. #14	L. W. Konecki	7-1-48/6-30-49—12 Mos.	75.00	50.00	300.00
Apt. #20	V. Cameron	5-2-49/6-2-49—1 Mo.	75.00	50.00	25.00
Apt. #21	Kathay Davis	6-1-48/through June 1949—13 Mos.	75.00	50.00	325.00
Apt. #30	L. S. Mann	April 1949—1 Mo.	55.00	18.00	37.00
Apt. #24	(L. Reeves (L. Ketterer	July 1-48/June 30-49—12 Mos.	75.00	65.00	120.00
Apt. #17	R. H. Henke	July 1-48/June 30-49—12 Mos.	55.00	40.00	180.00
Total.....					\$1,257.00

[Endorsed]: Filed August 16, 1949.

[Title of District Court and Cause.]

No. 444

ANSWER

Comes now the defendant, B. M. Crenshaw and answers the Bill of Complaint on file herein, as follows:

I.

Admits all of the allegations of Paragraphs I and III of said Complaint.

II.

Denies each and every allegation of Paragraphs II, IV, V, and VI of said Complaint.

III.

As a further and separate defense, and answering the whole of the Complaint and having denied the allegations of Paragraph II, and having admitted that said action was brought as alleged in Paragraph I, this answering defendant now alleges that said laws and acts described in Paragraphs I and II of this Complaint are unconstitutional and do not confer jurisdiction upon the United States to bring any action of any kind set forth in the whole of the Complaint herein, and do not confer power to grant the relief prayed for in Divisions 1, 2, 3, 4 and 5 of the prayer for relief in this Complaint, in that it violates and is repugnant to the due process clause of the Fifth Amendment of the Federal Constitution.

Wherefore, Defendant prays judgment of this Court, as follows:

1. That said action be dismissed and that plaintiff take nothing by its Complaint herein. [8]

2. That the relief demanded in the prayer of the Complaint at Divisions 1, 2, 3, 4 and 5, and each of them, be denied.

3. That the defendant have his costs in this action, and for such other and further relief as this Court may deem just and equitable to the defendant herein.

/s/ E. F. BUNKER,  
Bozeman, Montana.

/s/ ERNEST A. PETERSON,  
Bozeman, Montana.  
Of Counsel with  
Defendant B. M. Crenshaw.

State of Montana,  
County of Gallatin—ss.

B. M. Crenshaw, being first duly sworn, upon oath deposes and says: That he is the plaintiff in the above entitled action; that he has read the foregoing Complaint, and knows the contents thereof, and that the matters therein stated are true of his own knowledge.

/s/ B. M. CRENSHAW.



Subscribed and sworn to before me this 1st day of September, 1949.

[Seal]      /s/ HOWARD M. LEWIS,  
Notary Public for the State of Montana, Residing at  
Bozeman, Montana.

My commission expires November 15, 1949.

Service of Copy Acknowledged.

[Endorsed]: Filed Sept, 2, 1949. [9]

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[Title of District Court and Cause.]

No. 444

FINDINGS OF FACT AND  
CONCLUSIONS OF LAW

This cause came duly on for trial before the above entitled Court on the 28th day of September, 1949, the Honorable W. D. Murray, United States District Judge, presiding without a jury, C. E. Knowlton, Jr., attorney for the Office of the Housing Expediter, appearing for the plaintiff, and Ernest A. Peterson and Eugene F. Bunker, of Bozeman, appearing for the defendant, and certain facts having been stipulated to by the parties and evidence both oral and documentary having been introduced and the parties hereto having submitted briefs, the Court being fully advised in the premises now makes its

## Findings of Fact

## 1.

That the defendant is and has been the landlord and operator of a certain multiple-unit housing accommodation located at 6 West Babcock Street, in the City of Bozeman, Montana, and has rented and offered for rent certain of the units within said housing accommodations at the times in these findings hereinafter mentioned.

## 2.

That the defendant rented Unit No. 7 within the Crenshaw Apartments to one C. A. Labbee for the two months from May 1, 1949 to June 30, 1949, and demanded and received from such tenant rent at the rate of \$65.00 per month.

## 3.

That on January 4, 1947, the Rent Director for the Bozeman Defense-Rental Area issued an order applicable to Apt. 7 within the [11] Crenshaw Apartments fixing the rent therefor at \$42.50 per month.

## 4.

That the defendant rented Unit #8 within the Crenshaw Apartments for the two months from May 1, 1949 to June 30, 1949, to one W. H. Westfall, and demanded and received from such tenant rent at the rate of \$75.00 per month.

## 5.

That on February 20, 1947, an order was issued by the Rent Director at Bozeman fixing the rent on

Apt. #8 within the Crenshaw Apartments at \$50.00 per month.

6.

That the defendant rented Apt. #9 within the Crenshaw Apartments for the six and one-third months from December 21, 1948 to June 30, 1949 to one R. G. Martin, and demanded and received from such tenant the sum of \$75.00 per month.

7.

That on February 20, 1947, the Rent Director for Bozeman issued an order fixing the maximum rent for Apt. #9 within the Crenshaw Apartments at \$50.00 per month.

8.

That the defendant rented Apt. #14 within the Crenshaw Apartments for the twelve months from July 1, 1948 to June 30, 1949, to one L. W. Konecki and demanded and received from such tenant for the use thereof the sum of \$75.00 per month, which sum this tenant by agreement and collusion with the defendant agreed to pay.

9.

That on January 6, 1947, an order was issued by the Rent Director for Bozeman fixing the maximum rent on Apt. #14 within the Crenshaw Apartments at \$45.00 per month.

10.

That the defendant rented Apt. #20 within the Crenshaw Apartments to one V. Cameron for the one month from May 2, 1949 to June 2, [12] 1949,

and that the defendant demanded and received from such tenant for the use thereof the sum of \$75.00 per month for such period.

## 11.

That on June 26, 1947, an order was issued by the Rent Director at Bozeman fixing the maximum rent for Apt. #20 within the Crenshaw Apartments at \$50.00 per month.

## 12.

That the defendant rented Apt. #21 within the Crenshaw Apartments to one Kathay Davis for the thirteen months from June 1, 1948 through June of 1949, and demanded and received from such tenant rental at the rate of \$75.00 per month.

## 13.

That the maximum rent as established for Apt. #21 within the Crenshaw Apartments, as disclosed by the records of the Bozeman office, Office of the Housing Expediter, was \$50.00 per month.

## 14.

That the defendant rented Apt. #24 within the Crenshaw Apartments to one L. Reeves and C. Reeves for the twelve months from July 1, 1948 to June 30, 1949, and demanded and received from such tenant the sum of \$75.00 per month, which sum these tenants by agreement and collusion with the defendant agreed to pay.

## 15.

That on February 20, 1947, the Rent Director for



the Bozeman Defense-Rental Area issued an order fixing the maximum rent on Apt. #24 within the Crenshaw Apartments at \$65.00 per month.

16.

That the defendant rented Apt. #17 within the Crenshaw Apartments to one R. H. Henke for the twelve months from July 1, 1948 to June 30, 1949, and demanded and received from such tenant \$55.00 per month.

17.

That the Area Rent Director for Bozeman, Montana, on January [13] 4, 1947, fixed the rent for Apt. #17 within the Crenshaw Apartments at \$40.00 per month.

18.

That no orders were or have been issued by the Rent Director or other authorized personnel of the Office of Housing Expediter or Office of Temporary Controls changing or altering the maximum rents fixed by the orders in these findings referred to up to the time of the trial of this case.

19.

That none of the persons paying rentals in excess of the orders and other records set forth in these findings have sued the defendant therefor pursuant to the Housing and Rent Act of 1947, as amended.

20.

That the defendant in demanding and receiving rentals in excess of the rentals provided for in the records and other orders referred to did not know-

ingly and wilfully charge these tenants in excess of the otherwise applicable maximum rentals, as established pursuant to the Housing and Rent Act of 1947, as amended, and from these Findings of Fact the Court makes the following

### Conclusions of Law

1. That jurisdiction to hear and determine this cause is conferred on the Court by Section 206(b) and Section 205 of the Housing and Rent Act of 1947, as amended.

2. That regardless of the validity or invalidity of Section 204(j) of the Housing and Rent Act, the remaining portions of such Act are constitutional and valid.

3. That the validity or invalidity of rent orders issued pursuant to the Emergency Price Control Act may not be challenged in this court unless and until persons so desiring to challenge can show they have exhausted the administrative remedies provided for in such Act.

4. That the maximum rent on Apt. #7 within the Crenshaw Apartments is and was \$42.50 per month, and the defendant by charging C. A. Labbe \$65.00 [14] per month for the two months involved overcharged such tenant in the total amount of \$45.00.

5. That the maximum rent on Apt. #8 within the Crenshaw Apartments is and was \$50.00 per month, and the defendant by charging W. H. Westfall the

sum of \$75.00 per month for the two months involved overcharged such tenant in the total amount of \$50.00.

6. That the maximum rent on Apt. #9 within the Crenshaw Apartments is and was \$50.00 per month, and the defendant by charging R. G. Martin \$75.00 per month for the six and one-third months involved overcharged such tenant in the total amount of \$157.50.

7. That the maximum rent on Apt. #14 within the Crenshaw Apartments is and was \$45.00 per month, and the defendant by charging L. W. Konecki \$75.00 per month for the twelve months overcharged such tenant in the total amount of \$360.00, and that such tenant in the exercise of sound discretion of the Court, is not entitled to any refund therefor.

8. That the maximum rent on Apt #20 within the Crenshaw Apartments is and was \$50.00 per month, and the defendant by charging V. Cameron the sum of \$75.00 per month for the one month involved overcharged such tenant in the amount of \$25.00.

9. That the maximum rent on Apt. #21 within the Crenshaw Apartments is and was \$50.00 per month, and the defendant by charging K. Davis the sum of \$75.00 per month for the thirteen months involved overcharged such tenant in the total amount of \$325.00.

10. That the maximum rent on Apt. #24 within the Crenshaw Apartments is and was \$65.00 per month, and the defendant by charging L. Reeves and C. Reeves the sum of \$75.00 per month for the twelve months involved overcharged such tenants in the total sum of \$120.00, and that such tenants, in the exercise of sound discretion of the Court, are not entitled to any refund therefor.

11. That the maximum rent on Apt. #17 within the Crenshaw Apartments is and was \$40.00 per month, and the defendant by charging R. H. Henke the sum of \$55.00 per month for the twelve months involved [15] overcharged such tenant in the total sum of \$180.00.

Let Judgment for Restitution be entered accordingly.

Done in Open Court this 21st day of February, 1950.

W. D. MURRAY,

United States District Judge.

Presented by:

C. E. KNOWLTON, JR.,

Attorney for Plaintiff.

[Endorsed]: Filed Feb. 21, 1950. [16]



[Title of District Court and Cause.]

No. 444

# JUDGMENT AND ORDER

This matter having come on for trial September 26, 27 and 28, 1949, and the Court having entered its Finding of Fact and Conclusions of Law herein, Now, Therefore,

It Is Hereby Ordered, Adjudged and Decreed that the defendant shall pay and restore to the following named persons the following sums which sums represent the amounts which this defendant has charged such persons in excess of the otherwise applicable maximum rents established under and pursuant to the Housing and Rent Act of 1947, as amended, in connection with such defendant's operation of the housing accommodations located at 6 West Babcock, Bozeman, Montana, to-wit:

C. A. Labbee.....	\$ 45.00
W. H. Westfall.....	50.00
R. G. Martin.....	157.00
V. Cameron.....	25.00
K. Davis.....	325.00
R. H. Henke.....	180.00
Treasurer of the United States.....	480.00
<hr/>	
Total .....	\$1262.50

That the sum payable to the Treasurer of the United States represents moneys collected by this

defendant in excess of the otherwise applicable maximum rents from tenants whom the Court has found not entitled in equity and good conscience to receive restitution.

It Is Further Ordered that the defendant shall pay the total of such sum referred to above, or \$1262.50 by check or money order payable to the Treasurer of the United States at the Office of the Housing Expediter, 905 1/2-3rd Avenue, Seattle, Washington, whereupon [18] such sums shall be distributed by the Office of the Housing Expediter to the persons entitled thereto under the terms of this Order.

Plaintiff shall have and recover taxable costs herein upon due notice to the defendant thereof, and all relief except as herein given is denied.

Done In Open Court this 21st day of February, 1950.

W. D. MURRAY,  
United States District Judge.

Presented by:

C. E. KNOWLTON, JR.,  
Attorney for Plaintiff.

[Endorsed]: Filed Feb. 21, 1950.

Entered and Noted in Civil Docket February 23, 1950. [19]

[Title of District Court and Cause.]

No. 444

# NOTICE OF APPEAL TO CIRCUIT COURT OF APPEALS

Notice is hereby given that B. M. Crenshaw, defendant above named, hereby appeals to the United States Court of Appeals for the Ninth Circuit from the final judgment and order entered in this action on the 21st day of February, 1950, and in which order it is set forth that the defendant shall pay and restore to the following named persons the following sums which sums represent the amounts which this defendant has charged such persons in excess of the otherwise applicable maximum rents established under and pursuant to the Housing and Rent Act of 1947, as amended, in connection with such defendant's operation of the housing accommodations located at 6 West Babcock, Bozeman, Montana, to-wit:

C. A. Labbee.....	\$ 45.00
W. H. Westfall.....	50.00
R. G. Martin.....	157.50
V. Cameron.....	25.00
K. Davis.....	325.00
R. H. Henke.....	180.00
Treasurer of the United States...	480.00
<hr/>	
Total .....	\$1262.50

That the sum payable to the Treasurer of the United States represents moneys collected by this

defendant in excess of the otherwise applicable maximum rents from tenants whom the Court has found not entitled in equity and good conscience to receive restitution.

That the defendant shall pay the total of such sum [108] referred to above, or \$1262.50 by check or money order payable to the Treasurer of the United States at the Office of the Housing Expediter, 905½-3d Avenue, Seattle, Washington, whereupon such sums shall be distributed by the Office of the Housing Expediter to the persons entitled thereto under the terms of this Order.

E. F. BUNKER,

ERNEST A. PETERSON,

Attorneys for Appellant.

[Endorsed]: Filed April 21, 1950. [109]

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[Title of District Court and Cause.]

No. 444

### BOND ON APPEAL

Whereas, the above named Plaintiff has secured a Judgment and Order in the District Court of the United States for the District of Montana, Helena, Division, against the above named Defendant for the direct payment of money from the Defendant in the sum of \$1,262.50 lawful money of the United States, payable to the Treasurer of the United States at the Office of the Housing Ex-



pediter 905 $\frac{1}{2}$ -3rd Avenue, Seattle, Washington, besides interest, and said Defendant is about to file "Notice of Appeal" in the said action to the United States Circuit Court of Appeals, for the Ninth District at San Francisco, California.

Now Therefore, the undersigned, National Surety Corporation, a Corporation created and existing under the laws of the State of New York, in consideration of the premises and of the appeal, does hereby undertake in the sum of \$250, and promises to the effect, that if said Defendant shall dismiss said appeal or if the Judgment be affirmed, the said Defendant will pay costs that may be awarded by the Appellate Court, not exceeding the sum of \$250.

Dated this 20th day of April A. D., 1950.

NATIONAL SURETY  
CORPORATION,

By S. J. KAISLER, JR.,  
Attorney in Fact.

Countersigned:

WAITE & COMPANY,

[Seal] By S. J. KAISLER, JR.,  
Resident Agent,  
Boseman, Montana.

[Endorsed]: Filed April 21, 1950. [111]

[Title of District Court and Cause.]

No. 444

ORDER EXTENDING TIME FOR FILING  
AND DOCKETING RECORD ON APPEAL

Application having been made for extension of time for filing the record on appeal and docketing the appeal with the Appellate Court within forty days from the date of filing the Notice of Appeal herein; and good cause appearing therefor.

It is ordered that the time for the defendant, B. M. Crenshaw, for filing the record on appeal and docketing the appeal in the United States Court of Appeals for the Ninth Circuit be extended to July 1, 1950, and that said defendant have such additional time for filing and docketing such record on appeal.

Dated at Butte, Montana, May 29, 1950.

W. D. MURRAY,  
District Judge.

[Endorsed]: Filed May 29, 1950.

Entered & Noted in Civil Docket, May 31, 1950.

[Title of District Court and Cause.]

No. 444

DESIGNATION OF CONTENTS OF RECORD  
ON APPEAL

To the Clerk of the above named District Court:

You will please take notice that B. M. Crenshaw, the Defenadnt in the above entitled action, has appealed to the United States Circuit Court of Appeals for the Ninth Circuit from the final judgment and order entered in this action on the 21st day of February, 1950, in favor of the plaintiff and against the Defendant above named and said defendant hereby requests a transcript of the pleadings and of the testimony and evidence offered and received, and the original exhibits, rulings or statements of the Court, also all objections and exceptions of counsel, a transcript of the Court's findings of fact and conclusions of law and the judgment and order rendered herein, be made up and prepared.

Dated this 15th day of June, 1950.

E. F. BUNKER,

E. A. PETERSON,

Attorneys for Defendant and Appellant, B. M.  
Crenshaw.

Affidavit of Service by Mail Attached.

[Endorsed]: Filed June 16, 1950. [115]

In the United States District Court, District of  
Montana, Helena Division.

No. 444

UNITED STATES OF AMERICA,

Plaintiff,

vs.

B. M. CRENSHAW,

Defendant.

### REPORTER'S TRANSCRIPT

Be It Remembered, that the above cause came on regularly for trial before the Hon. W. D. Murray, United States District Judge for the District of Montana, sitting without a jury, in the Court Room of said Court in the United States Post Office Building, Butte, Montana, on the 26th and 28th days of September, 1949, Mr. C. E. Knowlton, Jr., Seattle, Washington, appearing as attorney for said plaintiff; and the defendant, B. M. Crenshaw, being present in person, and represented by his attorneys, Messrs. E. F. Bunker and Ernest A. Peterson, of Bozeman, Montana.

Whereupon, on September 26th, the following proceedings were had:

Mr. Peterson: May it please the Court, in Cause No. 444, the United States of America, vs. B. M. Crenshaw, comes now the defendant, B. M. Crenshaw, and moves that this Court should dismiss the complaint against him for want of jurisdiction of said Court over the subject matter therein con-



tained, on the [21] grounds that the only basis or reason for claiming jurisdiction in this Court is the validity of the Housing and Rent Act of 1947, as amended by the 81st Congress, First Session, and that said amendment, known as the Housing and Rent Act of 1949, is invalid; that the option provisions of said 1949 Act, Section 204 J (1), (2) and (3), are unconstitutional and void for the reason that the Congress has improperly delegated its war powers to states and municipalities by allowing them to set their own rent controls, making the whole of the 1949 rent control invalid, notwithstanding the saving clause.

If your Honor please, this matter is discussed fully in an opinion by Judge Shaw of the Northern District of Illinois in the Seventh Circuit. The opinion is a recent one. It appears in the advance sheets of the Federal Supplement under date of September 12, 1949. The case will be reported in Volume 84, Number 9 of the Federal Supplement. I might say, quoting from Judge Shaw's opinion, and, while I fully realize, your Honor, that your Honor is not bound by this opinion, I think the discussion contained in the opinion is enlightening and throws a great deal of light upon the question of whether or not this Court has jurisdiction of this case.

It is true that Congress has only such powers as is given to it by the Constitution of the United States, and certain powers which are derived by implication. Judge Shaw, in his opinion, says, "The precise question for decision in this case [22] is the

validity of the Housing and Rent Act of 1949.” I don’t want to trespass upon your Honor’s time, but has your Honor read this opinion?

The Court: No, I haven’t.

Mr. Peterson: I have it here and I would be glad to show it to your Honor. The principal point here raised in the matter is that the whole 1949 Act is invalid by reason of the delegation of the war powers to a state or municipality. The Congress of the United States, operating under the war powers contained in Article 1, Section 8 of the Federal Constitution, of course, has the powers to pass legislation which in any way would aid the government in prosecuting the war, and it is assumed and pointed out that the entire purpose of this Act was to do that. But the 1949 amendment, as stated in the preamble of the Act, was definitely for the purpose of bringing about a condition which would make it repealable. Now, the Congress did not see fit to extend the 1947 Act, but it amended it by saying that the thing to do was to make it possible to alleviate any injustice or any wrong, and make it repealable as soon as possible. And the provision, the option provision in the Act, apparently, is for that purpose. The Court held, that is, Judge Shaw held in this case which arose in Chicago, that by reason of Subsections J(1), (2) and (3), that the powers delegated to the states here contravened the Federal Constitution and were improper; and he says that that is of enough importance [23] to invalidate the entire Act, notwithstanding the pro-

visions of the saving clause. He goes into a discussion of the Congressional reports, the arguments in the United States Senate and in the Committee, where the question was never raised as to the war powers of Congress, but it was discussed more or less on economic grounds, and the provision that went into the Act was: we are going to try to repeal this as soon as we can in order to avoid hardships which might accrue to landlords and others. The Court said that that was similar to a war power of Congress being delegated, such as the raising of soldiers for war or conflict under the Selective Service Act, and leaving it up to the legislatures or town councils of the various communities to say whether or not they would raise the quota. That, as the Court said, would nullify the Act. The Court said, "There is one more reason for holding the law indivisible, and I think it is a conclusive one, one that closes the door on all argument. Had Congress desired and intended to continue rent control without these local option clauses, it could have done so by a simple Act extending the expiration date of the then existing law. It follows that I must necessarily find the entire Act invalid, and being invalid, this Court has no jurisdiction."

Upon the reasoning contained in that opinion, your Honor, and by reason of the fact that this Court has the right to determine whether or not it has jurisdiction, we submit that [24] the Cause Number 444 should be dismissed. I would like your Honor to consider that matter and read that opinion.

Mr. Knowlton: I have a copy of the Act here, which the Court may like to look at during the course of this proceedings.

Mr. Peterson: In connection with that, I understand that there is a movement on the part of the government attorneys — Mr. Kaplan, I believe, is the attorney for the Housing Expediter in Chicago, and I have pretty reliable information on that that there is an appeal directed to the Supreme Court rather than through the Circuit Court. They are going to try to determine this question whether or not it is unconstitutional.

Mr. Knowlton: If your Honor please, that is my information, too, that the Shoreline Cooperative case is now on direct appeal to the United States Supreme Court, and certiorari has been allowed in that case.

The Court is probably familiar with the case of Woods against Miller, 68 Supreme Court, 421, in which the Housing and Rent Act was first brought up to the Supreme Court; the Supreme Court, after the Act had been found unconstitutional in the District Court, found the Act constitutional. That is the only case where the Act has been before the Court on constitutional grounds.

The reason why the District Court in the Shoreline Cooperative case, cited by counsel, found the Act was unconstitutional was based upon the fact that it found certain provisions of [25] the Act to be invalid. Without going into the question of whether the provisions are valid or not, it certainly



is a fact that if the provisions are separable from the rest of the Act, why there is no question of the validity of the rest of the Act. This action here hasn't got anything to do with Section 204-J, cited by counsel, and which the Court in Chicago found to be invalid. Section 204-J is an amendment allowed by the 1949 Act, whereby the local governing bodies of cities, towns and villages, and also state legislatures, after making certain findings, could recommend decontrol of their particular communities. On the question of separability, certainly that section allowing such decontrol of various communities hasn't got anything to do with the enforcement provisions of the Act which are before the Court at this time. Their validity or invalidity hasn't got anything to do with whether Mr. Crenshaw has charged more than the maximum rents applicable to particular housing accommodations. Certainly the test of whether one section being invalid renders the rest of the Act invalid is whether the rest of the Act is so interconnected with the section found to be invalid that the finding of the section to be invalid defeats the rest of the Act. Now, the case that the Judge there in Chicago relied upon was Carter against the Carter Coal Company case. I haven't the decision, but it is cited in that case. In that case the Supreme Court had the question before it as to the [26] validity of certain coal acts which attempted to set certain prices on delivery of coal. It set forth a formula as to how wages were to be computed, and then set forth a

formula as to how prices should be computed for the sale of this coal. It appeared that the wages were part of the determination of the prices. They found the wage part to be unconstitutional, and consequently, it was obvious that they had, because of the fact they were so intertwined, to find the price section invalid; so that actually, *Carter vs. Carter Coal Company* doesn't support the decision, as a matter of fact.

The conclusive argument used by the Court in Illinois is to this effect: He says if Congress merely wanted to extend the 1947 Act, all they would have had to do was pass a simple resolution extending it instead of putting these decontrol features in. It is inferred in the Court's opinion that that is all Congress did. As a matter of fact, it isn't all Congress did. In addition to the fact that they added provisions for decontrol, they made a number of changes. Prior to the 1949 amendment, the landlord and tenant could increase rents by leases. There is no provision for that; no provision for the United States or anybody else to sue for treble damages, except the tenant. The previous Act did not provide that the United States should be the party plaintiff while this Act so provides, and there are a number of changes in connection with this thing. As a matter of fact, it provides [27] for recontrol of large groups of housing accommodations which weren't controlled by the previous act, such as housing which is first rented, provided it isn't new, and leases which had terminated during

certain specific dates which were decontrolled prior to the enactment of this Act. So, the conclusive argument of the Court seems to indicate that the Court never read the Act. I submit the Act, until the Supreme Court rules otherwise, is constitutional under the authority of the case of *Woods vs. Miller*.

Mr. Peterson: May it please the Court, may I add that the Presiding Judge in the Northern District of Illinois called attention to the preamble of the 1949 Act, and he indicated and argued — not argued, but pointed out — that the main feature of the 1949 Act was to do away with rent control in such a way as to relieve the economic impact, and so, according to the research made by the District Judge, that is the important feature of the 1949 Act. The Court held that that feature of the Act was the important feature of the Act and it was so intertwined with the other features of the Act that if that be invalid, the whole 1949 Act is invalid and void, the rule, I submit, being that if the valid and invalid parts of the law are bound together so that the immaterial part is a material inducement to the whole, the whole is void. We submit, your Honor, the Court has no jurisdiction.

The Court: What is the citation of the *Miller* case that you [28] refer to?

Mr. Knowlton: 68 Supreme Court, 421. Your Honor, I might say the declaration of policy contained in the present Act is the same one as always existed in this Act and was at the time the *Miller* case was decided by the Supreme Court.

The Court: The motion is in Cause No. 444, is that it?

Mr. Peterson: Yes, your Honor.

The Court: The same argument is not made with reference to the other cause pending, 373?

Mr. Peterson: It would not be applicable, your Honor.

The Court: If I understand the argument, then, it is upon the amendment that the Act became unconstitutional?

Mr. Peterson: Yes, your Honor.

The Court: And that because of the decontrol features of the Act——

Mr. Peterson: The Act is void.

The Court: And the whole of it, because of the decontrol features of the amendment, the whole Act falls?

Mr. Peterson: Yes.

The Court: Very well, the Court is going to consider your argument. The Court will stand in recess until 11 o'clock so that I can have time to read the cases cited, and there is no use going any further if your argument is sound, so the Court will stand in recess until 11 o'clock.

(Whereupon, a recess was taken until 11 o'clock, [29] A. M., the same day, September 26, 1949, at which time the following proceedings were had:)

The Court: The matter which the Court now has under consideration does not go to the cause No. 373, but the Court wishes to take a little more



time to consider the matter, and so I don't want to confuse myself in the consideration of that matter with the proceeding of the hearing of evidence in Cause No. 373, so that case will be continued until two o'clock this afternoon, and the Court will keep under advisement the motion with reference to jurisdiction of the Court in the other case, No. 444. If either counsel have any further citations they wish to call to the Court's attention, I will be pleased to receive them. I might say, Mr. Peterson, in a case of this nature where such an important question is raised the Court would appreciate it if it had been raised sometime ago so that I could have devoted many hours or days of study to the matter. However, I appreciate that circumstances sometimes don't permit that to be done, but I do wish in the future you would keep that in mind in matters of this kind.

Mr. Peterson: I appreciate that. I might say in connection with this, it was only a few days ago that I got this decision. I wasn't informed.

The Court: Yes, surely. I understand that. Is there any further citation of authority you would like to have the Court consider? [30]

Mr. Peterson: I haven't any.

The Court: Do you have any?

Mr. Knowlton: I haven't any with me. I could furnish the Court with a brief in the matter if the Court, after hearing the evidence, should want to further consider it.

The Court: If I can, I am going to rule on the matter at two o'clock and dispose of it if my mind

is clear as to the decision I should make, but if, in the meantime, you have anything you care to present to me, I will consider it. Court will stand in recess until two o'clock this afternoon.

(Whereupon, a recess was taken until 2 o'clock, P. M., the same day, September 26, 1949, at which time the following proceedings were had:)

The Court: With reference to the motion in Cause No. 444, the Court has considered the motion and read the authorities that have been submitted to the Court in that connection, and finds that it cannot follow the decision of the District Court in the case of Woods vs. Shoreline Cooperative Apartments in holding that the invalidity of Sections J-1, J-2 and J-3 of the Act caused the entire act to fall. From my reading of the Act, it appears to me first, that the methods of decontrol set forth in those subsections are just some of the methods of decontrol; that other provisions are made for the decontrol of rent areas, and so, while the Congress has expressed a desire and a policy to decontrol as soon as practicable under the [31] circumstances that exist, that decontrol can still occur even though it be held that Sections J-1, 2 and 3 are invalid. The Court in the case cited has placed great stress upon the principle that the declaration of policy advises that the Congress wants to decontrol as soon as possible, but on the other hand, the Congress has passed an Act authorizing control. The purpose of the Act cannot be said to decontrol. The purpose

of the Act is to control, and within that purpose, it will be the policy to decontrol as soon as possible; so this Court does not feel that even accepting the proposition that Subsections J-1, 2 and 3 are unconstitutional, that the failure of those sections invalidates the whole Act. The motion is, therefore, denied.

Mr. Peterson: Your Honor, my understanding is that it is not necessary to note any exceptions to the Court's rulings under the rules.

The Court: No, you need not note an exception.

Mr. Peterson: Thank you, your Honor.

The Court: As I say, I haven't been able to follow the argument in that case that the principle purpose of this Act is to decontrol. I accept it that the principle of the Act, the purpose of the Act, is to control primarily, and to decontrol as soon as possible; and the declaration of policy does not carry with it as much weight as the real purpose of the Act. The Court in that case considers that because the Act was passed [32] with such a declaration that that was the real purpose of the Act, whereas, we may consider that those provisions were inserted because of political pressure to decontrol in the face of the desire of Congress to control; and so, I do not accept the reasoning of the Court in that case, and I will not declare that this Court does not have jurisdiction because of the failure of Subsections J-1, 2 and 3, so that case will be ready to proceed to trial as soon as we get to it at the conclusion of this case, No. 373.

(Whereupon, further proceedings in this cause were continued until 11 o'clock A. M., September 28, 1949, at which time the following proceedings were had:)

The Court: United States vs. Crenshaw, No. 444.

Mr. Knowlton: In connection with this case, your Honor, there are a number of apartments that are the same as were involved in the previous case just tried before your Honor. In connection with those apartments that are the same, namely, 8, 9, 14, 20, 21, 24 and 17, so far as the evidence relative to the maximum rents introduced by the plaintiff, it would be the same, and I should like so much of the record in the first case as material to the second to be introduced in the second case.

Mr. Peterson: If the Court please, I like that suggestion. If counsel could get together, we might stipulate to a briefer record on that. It appears that Apartments 8, 9, 12, [33] 17, 20, 21, 24 and 30—30 is deleted, I believe — are pertinent to the issues in this case. Perhaps we could get together.

The Court: It is nearly the noon hour. Court will stand in recess until two o'clock. In the meantime, you can get together and maybe eliminate some of the proof necessary. Court will stand in recess until two o'clock.

(Whereupon, a recess was taken until 2 o'clock P. M., the same day, September 28, 1949, at which time the following proceedings were had:)



## Stipulation of the Parties as to Issue

The Court: United States vs. Crenshaw, No. 444.  
What is the situation now?

Mr. Knowlton: I think we are ready to go, your Honor. We will get this stipulation in first. The parties hereto, through their attorneys, have entered into a stipulation relative to certain parts of the record that may appear in connection with this cause on trial. The parties hereto, through their counsel, stipulate that the records of the Housing Expediter at Bozeman will show an order issued on January 4, 1947, fixing and establishing the maximum rent for Apartment 7 within the Crenshaw Apartments at \$42.50 per month. No order has subsequently been made relative to such apartment; that such order shows on its face that it was deposited in the United States Mail on or about the date it was issued. The records of such office would further show that on February 20, 1947, an order was issued fixing the maximum rent on Apartment [34] 8 at \$50 a month. A copy of such order was introduced in Cause No. 373, Helena Division, and no further order has been made concerning the rent on such apartment; that the records of such office would show that on February 20, 1947, an order was issued fixing the maximum rent on Apartment 9, Crenshaw Apartments at \$50 per month. That a copy of such order was introduced in Cause 373, Helena Division, as Plaintiff's Exhibit 3, and no further order has been made concerning the rent of such apartment.



The records would further show that on January 6, 1947, an order was issued fixing the maximum rent on Apartment 14, Crenshaw Apartments, at \$45 per month, furnished. That a copy of such order was introduced in Cause 373, Helena Division, as Exhibit 5(b). No further order has been made relative to such apartments.

The records of such office would further show that on June 26, 1947, an order was issued fixing the maximum rent on Apartment 20, Crenshaw Apartments at \$50 per month. That a copy of such order was introduced in Cause 373, Helena Division, as Plaintiff's Exhibit 9. No further order has been made relative to such apartment.

That the records of such office would further show that on January 4, 1947, an order was issued fixing the maximum rent on Apartment 17, Crenshaw Apartments, at \$40 per month. That a copy of such order was introduced in Cause 373, Helena, [35] as Plaintiff's Exhibit 7, and no further orders have been made relative to such apartment.

It is further stipulated that the maximum rent established on Apartment 21 during the time involved in this complaint was \$50 per month. It is further stipulated that there appears in the records an original of an order relative to Apartment 24 in the Crenshaw Apartments, stating the maximum rent was established at \$50 per month, unfurnished, and such order further set and fixed the maximum rent at \$65 per month, furnished. Said order was issued February 20, 1947.

The Court: Is the purpose of that stipulation that the Court can consider the orders and testimony with reference to those orders given in the other case?

Mr. Knowlton: I would think so.

Mr. Peterson: We didn't discuss that, your Honor.

The Court: In other words, will the evidence that has been given in the other case covering identical issues that are raised in this case, will that evidence be considered as going to the issues in this case?

Mr. Peterson: I think it may be agreed and understood, your Honor.

Mr. Knowlton: There is one additional apartment, that is No. 7. That wasn't in the previous case. All the rest were in the previous case.

The Court: Is the issue in this case the question of whether [36] or not notice was given to the defendant and he knew of the orders?

Mr. Peterson: That will be part of it.

The Court: What else is at issue?

Mr. Knowlton: The amount of the rental charged.

The Court: The amount of the actual charges?

Mr. Bunker: The amount of the overcharges, if any.

Mr. Knowlton: I think also the defendant may want to put on some testimony as to whether it was wilful or not.

Mr. Peterson: I think that comes within the

purview of the statute whether or not the Court in good conscience could impose treble damages.

The Court: Very well, proceed.

Mr. Knowlton: Call Mr. Crenshaw as an adverse witness.

Mr. Bunker: To which we object on the grounds and for the reason that this is a penalty statute. If he calls him he calls him as his witness and not as an adverse witness.

The Court: What is your authority on the matter?

Mr. Bunker: The authority on that is that he has asked the Court to give treble damages. In that case, it becomes a penalty statute, and under a penalty statute, you may not call an adverse witness.

The Court: Do you have any authority contrary to that?

Mr. Knowlton: This is only a civil action. The only time I ever heard of that a person can claim any sanctity is [37] in a criminal action.

Mr. Bunker: The Court so ruled in one of the other cases.

Mr. Knowlton: It might have been that Crenshaw might have testified and then been prosecuted criminally for what he said, but this is no criminal action. It is a civil action and there is nothing in the Act or any place that I know of where he can't be called as an adverse witness.

Mr. Bunker: In the other action, it was entirely on the basis of being a treble damages action.

The Court: Do you have any authority besides your statement?

Mr. Bunker: No, I haven't looked for any authorities. It has been twice in this Court, so I figured that was that.

The Court: What was the basis of the ruling protecting a defendant against being called as a witness.

Mr. Bunker: If you call him as a witness where he is subject to a penalty, not in an actual criminal case or something of that kind, you make him your own witness if you call him to your side. The state statute under which this power is given is in a civil case not covering a penalty. I think there was an old decision, it has been so long ago since I looked it up. It was in 1943, your Honor, that the statute was passed, but I can't tell you what that ruling was.

The Court: Of course, the matter is important.

Mr. Bunker: In the other case, I didn't object because there was no penalty. [38]

Mr. Knowlton: This procedure would be governed by federal rules, not what the state legislature in the State of Montana may have done. The only federal rule I know of is the constitutional guarantee against self-incrimination in a criminal case. You can't make a man testify against himself in a criminal case.

The Court: The penalty here isn't in the nature of a criminal penalty.

Mr. Bunker: It is a smarting penalty.

The Court: It is in the nature — it may be a penalty, but it is in the nature of whatever penalty a court of equity issues.



Mr. Bunker: I don't think a court of equity without the statute could possibly do that.

The Court: It is true it is statutory, but I mean it is in that nature. The purpose of it is to correct.

Mr. Bunker: That is true.

Mr. Knowlton: There have been a number of cases, your Honor, including, I believe, one in this Circuit that have held this treble damage remedy is a remedy and not a penalty.

The Court: The matter is of such importance that I would like to have some authority on it. Court will stand in recess for 20 minutes to look into the matter.

(20-minute recess.)

The Court: The Court will come to order. What was the objection? [39]

(Objection read back by reporter.)

The Court: Overruled. Take the stand, Mr. Crenshaw.

### B. M. CRENSHAW

called as an adverse witness by the plaintiff, being first duly sworn, testified as follows:

### Direct Examination

By Mr. Knowlton:

Q. State your name, please.

A. B. M. Crenshaw.

Q. You are the defendant in this suit now on trial?

A. Yes, sir.



(Testimony of B. M. Crenshaw.)

Q. You have been operating the Crenshaw Apartments at 6 West Babcock Street, Bozeman, Montana? A. Yes, sir.

Q. How long have you been so operating them?

A. Ten years.

Q. You are presently the operator?

A. How is that?

Q. You are presently operating them?

A. Right now, yes.

Q. Do you recall having a tenant in Apartment 7 by the name of Labbe? A. Yes, sir.

Q. Do you recall when he was there? [40]

A. I think it was April 1st.

Q. Do you recall when he moved out?

A. A month or so later. He was there, I think, approximately two months.

Q. Do you recall how much you charged him for his rent? A. \$65.

Q. Do you recall having a tenant by the name of Westfall in Apartment 8?

A. Yes, sir.

Q. Do you remember how long he was there?

A. About the same period of time.

Q. Do you recall how much you charged Mr. Westfall?

A. I charged him \$65 and \$10 for the use of beds and services.

Q. He had an extra bed, is that true?

A. Yes, sir.

Q. Do you recall having a tenant by the name of Martin in your property? A. Yes.

(Testimony of B. M. Crenshaw.)

Q. Apartment 9, wasn't it?

A. Yes, sir.

Q. Do you recall when he moved?

A. I don't recall, I would have to look at the receipt book.

Q. Do you recall how much you charged him?

A. \$65 and extra service.

Q. How much for the extra service? [41]

A. \$10.

Q. He is still there?

A. He is in 7 at the present time.

Q. He moved from 9 to 7? A. Yes.

Q. Do you recall when that was?

A. I would have to look it up.

Q. Major Konecki is still there?

A. Yes, sir.

Q. He has been there quite awhile?

A. A couple of years or better.

Q. He is still there? A. Yes, sir.

Q. How much have you charged Mr. Konecki?

A. \$65.

Q. You don't charge him \$75?

A. \$65 and \$10 for the use of furniture and stuff he requested me to put in.

Q. Did you collect rent from him on the first of the month? A. Yes, sir.

Q. Did you collect \$65 and \$10 for the extra service?

A. For the furniture he wanted extra.

Q. You collected that on the first of September of this year?

(Testimony of B. M. Crenshaw.)

Mr. Bunker: Objected to as incompetent, irrelevant and immaterial and no part of this case.

[42]

The Court: Overruled.

Q. You collected on the 1st of September of this year—

A. \$65 for rent and \$10 for the furniture he requested.

Q. Do you recall having a tenant by the name of Cameron in Apartment 20?

A. He was there a little over a month.

Q. How much did you charge him while he was there?

A. \$65 and extra for the extra beds?

Q. How much extra.           A. \$10.

Q. You still have a tenant by the name of Kathay Davis in Apartment 21, haven't you?

A. Yes, sir.

Q. Do you recall when she moved in?

A. About six months ago or better.

Q. More than that, wasn't it?

A. It might have been.

Q. How much did you charge her?

A. \$65.

Q. Do you charge her anything extra?

A. For cleaning and other services.

Q. You charge her \$10 more, is that right?

A. Yes, sir.

Q. Apartment 24, you have some girls in there?  
How many girls?

(Testimony of B. M. Crenshaw.)

A. Three in there; I wouldn't know whether there was three [43] or two.

Q. They have been there quite a while, haven't they?      A. Yes.

Q. How much do you charge them?      A. \$65.

Q. You charged for the extra girl?

A. The extra furniture they requested.

Q. Mr. Henke is in 17?      A. Yes.

Q. He has been for a couple of years?

A. Yes.

Q. How much do you charge him?

A. \$50. Just the same as the other, he has davenport. I had to take mine out and I charge him \$5 a month extra.

Q. In any of the cases in which you charge for what you say is extra service, have you ever petitioned the office there in Bozeman for permission so to charge?

A. I didn't know I had to.

Mr. Knowlton: That is all.

### Cross-Examination

By Mr. Peterson:

Q. How long have you been operating the Crenshaw Apartments at 6 West Babcock Street, Mr. Crenshaw?

A. Since June 15, 1940, that is as an apartment house. I [44] took it over December 11, 1937.

Q. What is the population, resident population of your apartment house?



(Testimony of B. M. Crenshaw.)

A. I think we counted yesterday. There is an even hundred.

Q. What type—in what city is the apartment house located?      A. Bozeman, Montana.

Q. There are — are there any defense plants, military installations, or munitions plants in the vicinity of your apartment house or in the vicinity of Bozeman, or have there been any during the time you have operated?      A. No.

Mr. Peterson: No further examination.

### Redirect Examination

By Mr. Knowlton:

Q. I should like to ask one additional question. Have any of these people I have asked you about when I examined you on direct sued you for overcharges?      A. No, sir.

### Recross-Examination

By Mr. Peterson:

Q. Have any of the persons named in the complaint and referred to in the testimony here in the interrogatories by Mr. Knowlton, C. A. Labbe, W. H. Westfall, R. G. Martin, L. W. [45] Konecki, V. Cameron, Kathay Davis, L. Reeves, L. Ketterer, or R. H. Henke, have they demanded of you any payment of the overcharges?

A. We have come to a settlement.

Q. Have they demanded of you any overcharges?



(Testimony of B. M. Crenshaw.)

A. No, sir.

Q. Have you made a settlement with any of them?      A. Yes, sir.

Q. Which ones?

A. The list is there, you will have to read it off.

Q. Have you made any settlement with Labbe?

A. I couldn't find him.

Q. Have you made any settlement with W. H. Westfall?      A. I couldn't find him.

Q. Have you made any settlement with R. G. Martin?      A. Yes, sir.

Q. Have you made any settlement with L. W. Konecki?      A. Yes, sir.

Q. Have you made any settlement with V. Cameron?      A. I couldn't find him.

Q. Have you made any settlement with Kathay Davis?      A. No.

Mr. Bunker: Mr. Knowlton, did you withdraw the question of Mr. Mann?

Mr. Knowlton: Yes. [46]

Q. Have you made any settlement with L. Reeves or L. Ketterer?

A. Yes, sir.

Q. With R. H. Henke?

A. Yes, sir.

### Redirect Examination

By Mr. Knowlton:

Q. When did you make the settlements?

A. After we got notice to appear here.

Mr. Knowlton: I should like to have all the evidence of settlement with the individual tenants

(Testimony of B. M. Crenshaw.)

stricken because any action by the tenants is barred when the government sues. It is absolutely immaterial for the purposes of this case. The government has the right of action here for treble damages. Even if the tenant sued, it could be defended against because it is barred. The Act so provides.

Court: I will overrule the objection. What kind of settlement did you make with Labbe? Did you make a settlement with Martin? ..

Witness: Yes, sir.

Court: What kind of settlement did you make with him?

Witness: We agreed everything was paid up to date for the services I had rendered. I got a receipt for it, just the same as (interrupted)——

Court: I mean you didn't pay him anything back or agree [47] to give him some rent in the future, is that it?

Witness: I will.

Court: I am just inquiring what your agreement was. You said you made a settlement. What was the settlement?

Witness: Read the receipt. That was the agreement, that receipt.

Court: What?

Witness: I have the receipts there.

Court: Just tell me what your settlement was with him. What did you agree to do?

Witness: I showed him this receipt I had written out. I says, "Do I owe you anything?" They

(Testimony of B. M. Crenshaw.)

says, "No." I says, "Will you sign this receipt that you are paid up in full?" They said, "Yes", they would sign the receipt. I said, "I have given you services that wasn't called for", and they were satisfied.

Court: There was no settlement made. You made no settlement of an account. All you did, you just went to them and said, "I don't owe you anything", is that right?

Witness: No. I says, "Do you want any money back, are you satisfied?" I says, "Will you sign a receipt?" They says, "Yes."

Court: Do you have the receipt there?

Witness: Yes.

Court: Let me see it. Just one of them is sufficient. [48] Have you got one with Martin? I think that is the one we have been discussing. You gave him that paper and he signed it, is that right?

Witness: Yes, sir.

Court: Mark this as an Exhibit. Calling your attention to Plaintiff's Exhibit No. 1, is that the document you gave to Mr. Martin, and that he signed?

Witness: Yes, sir.

Court: It purports to have been made on August 23, 1949, is that right?

Witness: Yes, sir.

Court: Is that the date this was done?

Witness: Yes, sir.

Court: Was there any exchange of consideration? Did he give you anything, or did you give him

(Testimony of B. M. Crenshaw.)

anything in connection with this settlement? Did you give him anything? Did you give him anything or promise him anything to sign this?

Witness: I can't figure it out.

Court: Just that. Did you give Mr. Martin anything or promise him anything to have him sign this?

Witness: I says, "This suit figures I owe you so much money. Do I owe you anything?" He says, "No." I says, "Will you sign this receipt?"

Court: That is all. You didn't give him anything or promise him anything in the future? [49]

Witness: No.

Court: Very well, the Court, on its own motion, will admit in evidence Plaintiff's Exhibit No. 1.

Plaintiff's Exhibit 1, here received in evidence, is as follows:

"No.....

Bozeman, Montana, August 23, 1949.

"Received from B. M. Crenshaw, settlement in full of my alleged claims for rentals in excess of maximum rentals as set forth in Complaint in Civil Action No. 444, U. S. vs. Crenshaw, Helena Division.

\$..... /s/ R. G. MARTIN"

Court: Is there any objection to it?

Mr. Knowlton: I would like to see it, your Honor. I have no objection except the one based on the same grounds as before.



(Testimony of B. M. Crenshaw.)

Court: That it occurred after the commencement of the action?

Mr. Knowlton: Yes.

Court: Well, the Court is not going to consider it for any purpose of reducing the amount that may or may not have been owed, but is considering it from the standpoint of the defendant's action in it and his knowledge as to whether or not there was any overcharge.

Mr. Knowlton: I understand that. I merely stated that for the record. [50]

Court: Is that the same kind of agreement, or as you say, settlement, that you made with all these others?

Witness: Yes, sir.

Court: Just the same thing. You went to them and asked them if you owed them anything, and they said, "No", and so they signed a similar document as that?

Witness: Yes, sir, these are the same thing.

Court: That is all.

Mr. Bunker: Did you consider your prior services, and did they consider your prior services would cover any extra amounts?

Witness: That is the way we understood.

Mr. Bunker: That is the way all of them understood it, isn't it?

Witness: Yes, sir.

Mr. Bunker: That is all.

(Witness excused.)



ROBERT G. MARTIN

called as a witness on behalf of the plaintiff, being first duly sworn, testified as follows:

Direct Examination

By Mr. Knowlton:

Q. State your name.

A. Robert G. Martin. [51]

Q. Where do you reside?

A. Apartment Number 7, Crenshaw Apartments.

Q. That is in Bozeman?

A. 6 West Babcock in Bozeman.

Q. Where did you reside prior to the time you resided in 7?

A. In 9.

Q. Would you state when you moved into 9?

A. I moved into the Crenshaw Apartments the 21st of December, 1948. I moved into an apartment up on the third floor. I can't recall the number. I was there for about two weeks, and it must have been about the first of January when I moved into 9.

Q. Do you recall when you moved from Apartment 9 to Apartment 7.

A. It was on the first day of July, 1949.

Q. Do you recall what rent you paid for your occupancy of Apartment 9?

A. Seventy-five dollars a month.

Q. What was your agreement with Mr. Crenshaw when you first moved into Apartment 9 as to what rent you were to pay for such apartment?

(Testimony of Robert G. Martin.)

A. \$75 a month rent.

Q. Was any mention made concerning part of it was for rent and part of it was for services?

A. No—would you please repeat that? [52]

Q. I asked you if any mention was made—in other words, what I was trying to find out is whether, when you went and engaged the apartment, he said so much was rent and that was all there was to it, or whether he broke it down some way?

A. It was all one figure.

Q. In other words, you rented the apartment as it was, as he showed it to you, and that was the amount you agreed to pay for it?

A. That's right.

Q. Showing you Plaintiff's Exhibit 1, will you state whether or not that is your signature on that?

A. It is.

Q. Under what circumstances did you happen to sign that?

A. Mr. Crenshaw approached me with it and asked if I would sign it.

Q. Did you receive any consideration from Mr. Crenshaw for your execution of that instrument?

A. Not at the time I signed the statement.

Q. Or any other time?

A. No.

Q. Why did you sign it?

A. There were two reasons: first, he said this was in conjunction with a suit which is probably coming up, and if I would sign it, I would, no doubt,

(Testimony of Robert G. Martin.)

not have to attend a trial, in which capacity I am in at the present time. The other reason [53] is that I am at the present time three months behind in my rent, and he said that if I would sign this, we could work something out. However, nothing definite has been worked out to date.

Q. Any reason why you are behind in your rent?

A. Yes, I am owner and operator of the Boze-man Greyhound Bus Depot, and through the summer months the line was out on strike and I didn't make a penny.

Q. When was the last time you paid \$75 to Mr. Crenshaw?

A. The first of September.

Q. But you missed some months prior to the first of September?

A. Yes, I have it here. I didn't pay him the first of June, July or August. The strike which I refer to was from the first of May to the middle of August.

Q. However, Mr. Crenshaw has not given you any receipt in full, has he?

A. Not to date. ..

Q. He didn't promise to give you such receipt, did he?

A. No, as I said, at the time he approached me with this receipt, that was one of the reasons why I did sign because he said we could arrange something along this line so far as my back rents were concerned, but as I said, nothing has been done as yet.

Q. But he made no promise in consideration of

(Testimony of Robert G. Martin.)

your executing that statement that he would forgive you for any rental he [54] claimed was owed by you?

A. He didn't promise.

### Cross-Examination

By Mr. Bunker:

Q. At the time you moved into this apartment, didn't you request extra furniture?

A. Not in the first apartment that I moved into upstairs, which I can't remember, or not in number 9, but in number 7, I did, but that was a different apartment, that was a cheaper apartment.

Q. Down in 7, didn't you have an extra bed for the baby?

A. That bed was already in the apartment when I moved in.

Q. You are referring to Apartment 9?

A. No. I had my own baby cribs in that apartment. They were my own property.

Q. You are now behind for the months of June, July and August?

A. Well, there is a difference there in rent of \$65 and \$75. It is a little confusing. The first of September, as I said before, I paid \$75.

Q. Just a minute, the first of what?

A. First of September, and actually the apartment I am in now is only renting for \$65, and so Mr. Crenshaw said he would apply that on the first month which I failed to pay, which would have been



(Testimony of Robert G. Martin.)

in June, and so actually, I am paid up outright [55] to the first of July as of now.

Q. He didn't, Mr. Crenshaw didn't get tough with you about signing the agreement or anything of that kind?

A. No, he merely asked if I would.

Q. He left you stay there for the three or four months you weren't able to pay?

A. Yes, he didn't force me or try to force me into paying any rent during the time I wasn't able to do so.

Q. He has not tried to evict you in any way?

A. No.

Q. Nor threatened you?

A. No.

Q. You signed that voluntarily?

A. Absolutely.

Q. You figured you had value received from Mr. Crenshaw?

A. I haven't to date, according—as I said before, the thing he mentioned about me being behind in my rent, and he would work something out along that line if I would sign this.

Q. There was no specified sum between you at all, was there?

A. No.

Q. Have you offered to pay any sum whatever for these various months?

A. You mean that I am behind?

Q. Yes.



(Testimony of Robert G. Martin.)

A. No, as I said, I have only been working about a month since [56] the strike was over. I have paid one month's rent since that time, but I haven't been able, I haven't had that much money ahead to make another payment of any kind.

Q. Mr. Crenshaw hasn't demanded it?

A. No.

Mr. Bunker: That is all.

The Court: Mr. Martin, when you first rented apartment number 9 from Mr. Crenshaw, what discussion did you have with him as to the rent then?

The Witness: Well, you mean when I actually moved into 9?

The Court: Yes.

The Witness: It was that I was to pay \$75 a month.

The Court: Did you have any discussion with him as to what the maximum rent for that apartment was under the orders of the Rent Director?

The Witness: No, I just took it.

The Court: You accepted that figure as being the figure you had to pay?

The Witness: Yes, sir.

### Redirect Examination

By Mr. Knowlton:

Q. Mr. Martin, what do you expect to pay for rent for next month?

Mr. Bunker: Objected to as calling for a conclusion of the witness. [57]

(Testimony of Robert G. Martin.)

The Court: Sustained.

Q. Well, has Mr. Crenshaw advised you your rental will be any other than \$65 a month for Apartment 7 for next month?

A. No, in fact I haven't seen or talked to him for quite some time.

Q. In other words, you paid \$65 last month for Apartment 7?

A. No, as I said before, I paid \$75 because (interrupted)——

Q. You were applying \$10 on back rent?

A. That is true.

Q. But you paid \$65 last month?

A. That's right.

Q. You haven't been informed your rent next month will be any different than last month?

Mr. Bunker: Just a minute; objected to as leading.

The Court: Sustained.

Q. As late as the first of September, Mr. Crenshaw expected you to pay back rent, is that right?

Mr. Bunker: Just a minute; objected to as incompetent, irrelevant and immaterial.

The Court: Sustained.

(Witness excused).

## L. W. KONECKI

Called as a witness on behalf of the plaintiff, being first duly sworn, testified as follows: [58]

## Direct Examination

By Mr. Knowlton:

Q. State your name, please.

A. Leon W. Konecki.

Q. What is your occupation, sir.

A. United States Army.

Q. Where do you reside, sir?

A. Apartment 14, 6 West Babcock, Bozeman, Montana.

Q. Who is your landlord?

A. B. M. Crenshaw.

Q. Would you state how much you are paying for rental for that apartment?

A. I reimburse Mr. Crenshaw a total of \$75 each month.

Q. When you first entered into that apartment, what was your agreement with Mr. Crenshaw as to how much rental should be paid for it?

A. I didn't ask him what the rental on that apartment was until along about the second week in January.

Q. What year?

A. 1948.

Q. Had you paid money before that?

A. No, sir.

Q. What was your agreement when you did enter into an agreement with Mr. Crenshaw?

(Testimony of L. W. Konecki.)

A. The apartment was rented by persons other than myself in [59] advance before I arrived at Bozeman.

Q. Did you have any conversation with Mr. Crenshaw as to what the terms of that rental in that apartment was?

A. Later yes, after we had been there.

Q. When did that occur to the best of your recollection?

A. That second week in January when I made my first payment.

Q. All right. What was that conversation about, what was your agreement?

A. My agreement was, I agreed with Mr. Crenshaw to pay a total of \$75 for the apartment plus improvements he planned to put in, which he has completed.

Q. Did Mr. Crenshaw mention at that time any improvements?

A. I asked him to make improvements in the apartment, and he agreed.

Q. Did you agree with him to pay anything extra for any services which he might give you?

A. We didn't differentiate between rent and services, it was a total sum.

Q. In other words, your agreement was—correct me if I am not correct—to pay \$75 for the use of that apartment.

A. The apartment and all other facilities.

Q. What other facilities did you receive?



(Testimony of L. W. Konecki.)

A. Laundry, use of storage room, and the improvements that go with it, that is, improvements that were added later after we moved in. [60]

Q. What were the improvements?

A. Since we have been there, Mr. Crenshaw has purchased and set a wall-to-wall rug in the living room, furnished a new davenport, two end tables, a telephone desk and chair, furnished the materials and so forth to renovate the kitchen, painted in the kitchen, painted the entire apartment, put linoleum on the floor. In short, the entire apartment has been renovated, and in addition, he has willingly removed some of his furniture so that we might carry our own furniture in the place.

Q. Showing you plaintiff's Exhibit 1, I will ask you whether or not you signed an agreement similar to that?

A. No, sir.

Q. You never signed one similar to that?

A. No, sir.

Q. Did you ever sign any agreement with Mr. Crenshaw?

A. No, sir.

Q. You never signed any agreement with Mr. Crenshaw settling any claim that you may have under Federal law?

A. Let me examine the signature.

Q. I didn't say you signed this one. I asked if you had signed one similar to it?

A. No.



(Testimony of L. W. Konecki.)

Q. You heard Mr. Crenshaw say you did?

A. He was refering to my family, I believe.

Q. Someone in your family signed a statement?

A. Yes.

Q. Were you present at that time?

A. Yes, I believe I was.

Q. Who was it with, your wife?

A. Mrs. Konecki.

Q. What was the conversation, if you know?

A. Similar to the testimony that Mr. Crenshaw gave; it was entirely correct.

Q. Would you state what you paid for rent on the first of September this year?

Mr. Bunker: We object to the question as calling for hearsay; the answer, it is purely hearsay.

Mr. Knowlton: As to what rent he paid the first of September? ..

Mr. Bunker: Incompetent, irrelevant and immaterial, your Honor, it is a time subsequent.

The Court: Overruled.

Q. How much rent did you pay on the first of September for your apartment?

A. Rental? I don't know how you can figure rent.

Q. How much consideration did you pay for the use of the facilities?

A. Thank you for the clarification. About \$75.

Q. Has Mr. Crenshaw advised you your rental will be any different than \$75 for next month? [62]

(Testimony of L. W. Konecki.)

A. I haven't discussed it with him.

Q. Mr. Crenshaw hasn't so advised you?

A. I didn't discuss it.

Mr. Bunker: Objected to as argumentative.

The Court: Sustained. Answer the question directly. When you can't, if you can't why explain it.

Mr. Knowlton: That is all.

The Court: You have testified, Major, you don't know what you pay for rent, is that right?

The Witness: I know the total amount I pay Mr. Crenshaw.

The Court: You know the total amount you pay Mr. Crenshaw, but you don't know what you pay for rent?

The Witness: No, sir.

The Court: How long has that gone on?

The Witness: Two years, 22 months.

The Court: You don't know whether you are paying \$50, \$60 or \$70 a month rent?

The Witness: For the rent part, no, sir.

The Court: You say you do pay something for these added conveniences. You don't know how much you pay for that?

The Witness: It has never been broken down to my knowledge. I pay a total amount which is very favorable to me.

The Court: You think it is all right?

The Witness: Yes.

The Court: You have never bothered to have an agreement with [63] him as to what your rent is?

(Testimony of L. W. Konecki.)

The Witness: I don't believe that the entire sum could be classified as rent, sir.

The Court: That is what I am trying to find out. The Court is interested in finding out what rent was charged for these apartments, and the Court, you can readily see that the Court is rather astounded to have a person testify that they don't know what they are paying for rent. It is just beyond my experience.

The Witness: Sir, to my mind it is a technicality. The total amount I reimburse Mr. Crenshaw is the only thing.

The Court: What did you understand you were paying Mr. Crenshaw?

The Witness: \$75 for everything.

The Court: For rent?

The Witness: For everything.

The Court: You made no distinction as to how much it was costing you to move his davenport out of your apartment and move your own in, if he charged you \$10 a month for that or \$5 or \$1, you don't know.

The Witness: I carry it all as one lump sum, sir.

The Court: So he may have been charging you \$25 or \$30 a month for that?

The Witness: For the moving?

The Court: Yes. [64]

The Witness: It could be.

The Court: How long have you lived in Apartment No. 14?

(Testimony of L. W. Konecki.)

The Witness: We moved in on the 16th of December, 1947.

The Court: 16th of December, 1947? ..

The Witness: Yes, sir.

The Court: And from the first of July, 1948, until the end of June, 1949, you did pay Mr. Crenshaw \$75 a month?

The Witness: Yes, sir.

The Court: Now, this conversation that was had with reference to a settlement, tell me about that.

The Witness: Mr. Crenshaw approached me—I don't remember the date or the time, it was in the evening—approached me and informed me he was trying to settle the matter out of court, and asked me if I had any claim to make against him. I told him no I hadn't, that I was completely satisfied with the services I had been getting for my reimbursement to him each month. He asked me to sign a receipt at the time. I didn't feel I could sign the receipt. Mrs. Konecki signed the receipt.

The Court: Why didn't you feel you could get involved in it?

The Witness: I didn't want to get involved in it and lose the days from work.

The Court: You mean you didn't want to get involved as a witness in a lawsuit?

The Witness: That's right, sir. [65]

The Court: You didn't realize that because you lived in the apartment, you would become involved as a witness?



(Testimony of L. W. Konecki.)

The Witness: No, sir.

The Court: That you were the one that paid the rent, that didn't enter your consideration?

The Witness: I physically personally do not pay the rent, Mrs. Konecki takes care of it.

The Court: You realize you are responsible for it?

The Witness: Yes, sir.

The Court: You furnish the money?

The Witness: Yes, sir.

The Court: So you pay the rent. Then, you were present when Mr. Crenshaw had the conversation with your wife, were you?

The Witness: The time the receipt was signed?

The Court: Yes.

The Witness: Yes, sir.

The Court: Tell me what the conversation was?

The Witness: Well, the conversation was between Mr. Crenshaw and myself and Mrs. Konecki, as I stated it, sir.

The Court: Just as you stated it was all. Mr. Crenshaw made no promise to you or your wife as to what he was going to do for you in view of your wife signing the document?

The Witness: No, sir.

The Court: He made no promise at all and didn't give you anything at that time? [66]

The Witness: No, sir.

The Court: Did you ever discuss with Mr. Crenshaw the maximum rent authorized by the Rent Director of the Bozeman area?



(Testimony of L. W. Konecki.)

The Witness: No, sir.

The Court: Did you ever know what the maximum rent was?

The Witness: No, sir.

The Court: Did you ever discuss the matter with any of the officers of the Rent Director's office?

The Witness: No, sir.

The Court: Do you know whether or not your wife did?

The Witness: She may have now, I am not sure.

The Court: Did she ever tell you she did?

The Witness: I believe—let me think a minute, sir. I believe I have never talked to anybody in the Bozeman office about it.

The Court: Did you ever talk to your wife about it? Did she tell you about it?

The Witness: About what?

The Court: About the maximum rent fixed for that apartment?

The Witness: I don't believe she knows.

The Court: Did you ever discuss it with her?

The Witness: The rent?

The Court: The maximum rent?

The Witness: In any detail, no.

The Court: Don't evade the Courts' questions. I have to [67] continuously call witnesses' attention to the fact the Court is trying to find out what the truth of the situation is. Don't quibble about whether it was in detail or not. Was the maximum rent of your apartment called to your attention, whether by your wife or by anyone else?

(Testimony of L. W. Konecki.)

The Witness: It wasn't called to my attention by my wife or by any of the officers in the Bozeman District office.

The Court: Was it called to your attention by anyone else?

The Witness: I believe a representative from the Seattle office paid us a visit at one time, and I am not sure whether he informed us then of the ceiling or not.

The Court: When was that visit made to you?

The Witness: I am not sure of the date. I believe Mr. Knowlton can refresh my memory on it.

The Court: Sometime prior to your coming here to Court, did you have any discussion with anyone concerning the maximum rent fixed on your apartment?

The Witness: I don't remember, sir.

The Court: What are your duties in the Army?

The Witness: I am with the Military Department at the College, Montana State College at Bozeman.

The Court: Do you have anything to do with advising the veterans that are there?

The Witness: No, sir.

The Court: You have nothing to do with that? Do you have any [68] responsibility in connection with veterans attending school?

The Witness: The only veterans we deal with are veteran students enrolled in Advanced ROTC.

The Court: Do you have any responsibility with

(Testimony of L. W. Konecki.)

those students other than the teaching of courses?

The Witness: You mean counselling and so forth? No, sir, my capacity is instructor of military subjects.

The Court: Did you know Bozeman was a rental area?

The Witness: Yes, sir.

The Court: You knew there were maximum rents set?

The Witness: Yes, sir.

The Court: Is it just the fact you were just satisfied to have a place to live in and pay whatever you were paying, just satisfied with that?

The Witness: Yes, I was quite happy.

The Court: You didn't care what the rent was?

The Witness: I was quite happy to find a place to live that was adequate.

The Court: So you made no further investigation of your own on the matter?

The Witness: That's right.

The Court: You don't know what rent you pay, though?

The Witness: We are back where we started (interrupted)——

The Court: You don't know that, you never inquired the amount? [69]

The Witness: We carry the entire amount on our household bookkeeping as rent.

The Court: You pay it as rent.

(Testimony of L. W. Konecki.)

Cross-Examination

By Mr. Peterson:

Q. Will you describe to the Court the apartment you occupy, Apartment 14, as to space and rooms?

A. I am not too certain as to the size of the rooms. The apartment consists of a large living room which runs the full length of the apartment. The living room contains a new rug, as I mentioned before, new davenport, two end tables with matching lamps, a coffee table, desk, dining room table and chairs, plus several articles of our own. Of the living room you will find the bedroom, adequately furnished with two dressers, I believe they are called, and a bed, of course, and I believe they are called two chests of drawers and a dresser with lights. Next is the kitchen adjoining the bedroom which contains an electric stove, electric refrigerator, a large number of cupboards and so forth.

Q. Major, assuming the maximum rent of that apartment by the Rent Area Board was \$50, do you feel you were given extra special services in addition to that which would make the reasonable value of this property \$75 a month?

A. Yes, sir. [70]

Q. Isn't it true that these special services which you requested and obtained consisted of a new davenport, telephone desk, chair, new linoleum and a few other things?

A. Exactly.

(Witness excused.)



## KATHERINE DAVIS

called as a witness on behalf of the plaintiff, being first duly sworn, testified as follows:

## Direct Examination

By Mr. Knowlton:

Q. State your name, please.

A. Katherine Davis.

Q. Where do you reside? A. Bozeman.

Q. Where in Bozeman?

A. I am living at the Bozeman Hotel now.

Q. Prior to the time you lived in the Bozeman Hotel, where did you live?

A. At the Crenshaw.

Q. What unit did you occupy in the Crenshaw?

A. 21.

Q. Do you recall when you moved into 21?

A. I think—I don't know, it was June or July.

Q. Of what year? [71] A. Last year, 1948.

Q. Do you recall when you moved out of the Crenshaw Apartments?

A. The 15th of September.

Q. Of what year? A. This year.

Q. Do you recall how much rental you paid while you were there? A. \$75.

Q. Your landlord is Mr. Crenshaw, is he not?

A. Yes.

Q. When you first entered negotiations for the occupancy of this apartment, what was your agreement with Mr. Crenshaw?



(Testimony of Katherine Davis.)

A. I looked at the apartment; I had to have a place to live; he said \$75, and I moved in.

Q. Was there any representation made to you that any part of the \$75 was for anything else but the rental?      A. No, rental is all.

Q. Have you signed a statement similar to this?

A. No.

Q. You never have?      A. No.

Q. Is there any particular reason why you moved out of the Crenshaw Apartments?

Mr. Bunker: Objected to as incompetent, irrelevant and immaterial.

The Court: Sustained. [72]

Mr. Knowlton: That is all.

### Cross-Examination

By Mr. Bunker:

Q. You did occupy the apartment between the 1st day of April and the last day of June, 1949?

A. Not in April.

Q. You didn't occupy the apartment in April?

A. Not in April, no.

Q. 1949?      A. Oh, in 1949, yes.

(Witness excused.)

## LEONE REEVES

called as a witness on behalf of the plaintiff, being first duly sworn, testified as follows:

## Direct Examination

By Mr. Knowlton:

Q. State your name. A. Leone Reeves.

Q. Is that Miss Reeves? A. Miss Reeves.

Q. What is your occupation, Miss Reeves?

A. I am a stenographer at Montana State College, Bozeman.

Q. Where do you reside, Miss Reeves? [73]

A. Apartment 24, Crenshaw Apartments.

Q. Who lives there with you?

A. My sister, Clarice, lives there.

Q. Anyone else live with you?

A. Not at the present.

Q. How long has that situation obtained, only two of you been there?

A. Last fall Lois Ketterer moved out. She had been living with us.

Q. Before that, you and your sister were there?

A. Yes, the three of us were there before.

Q. When did you move into the apartment, do you recall?

A. I believe the 1st of April, 1948.

Q. You are still there, and your sister?

A. Yes.

Q. But Miss Ketterer hasn't been there since last fall? A. That's right.

(Testimony of Leone Reeves.)

Q. No one else has been there besides your sister?

A. No.

Q. How much have you paid Mr. Crenshaw in connection with your use of that apartment?

A. \$75 a month.

Q. From the beginning? A. Yes.

Q. Up to and including this last month? [74]

A. Yes.

Q. Did you, yourself, negotiate for the renting of that apartment?

A. No, I believe Miss Ketterer did and her mother.

Q. Have you been advised by Mr. Crenshaw that your rental for next month will be different than the rental for last month? A. No.

Mr. Bunker: Objected to as incompetent, irrelevant and immaterial, calling for speculation by the witness.

The Court: Sustained.

Mr. Knowlton: If your Honor please, I think it is proper. Mr. Crenshaw will undoubtedly make representations to the Court that he intends to abide by these regulations, and what is now, I think, good evidence of whether he would follow them is whether he advised the tenants what he intends to collect next month. I only asked this witness what Mr. Crenshaw advised her, whether her rent will be any different next month than it was last.

The Court: Well, when Mr. Crenshaw makes

(Testimony of Leone Reeves.)

such representations, we can ask him what he has done, but I don't see at this point where we have to go into it.

Q. Miss Reeves, do you recall executing an instrument similar to Plaintiff's Exhibit 1? You didn't sign that one, but did you sign one similar to that? A. Yes, one similar. [75]

Q. You, yourself, did that? A. Yes.

Q. When did you do that?

A. Toward the last part of last month; I don't remember the date.

Q. Of last month? A. August.

Q. August? A. Yes.

Q. What was the conversation had between Mr. Crenshaw and yourself? Is that who you conferred with?

A. I had no conversation with him. He had brought it to the apartment while I was on vacation and given it to my sister. She gave it to me.

Q. Did your sister sign it, do you know?

A. No, I signed it.

Q. All you know is you found this when you got back and you signed it?

A. He had told my sister he hoped to settle the claim out of court and if we had no complaint, he would like to have it signed, and I signed.

Q. So far as you know, there was no consideration given for your signature on the instrument similar to that?

A. No, none in the future.



(Testimony of Leone Reeves.)

Q. What past consideration have you received? [76]

A. He has put in every piece of furniture we have asked for and made minor repairs we have asked for to our complete satisfaction.

Q. Is the furniture he put in more than you would ordinarily expect in an apartment?

A. It is more than you ordinarily find in an apartment.

Q. Upon the placing of additional furniture in the apartment, did you have any agreement that part of the money you paid him was for such additional furniture?

A. Not at the time he put it in.

Q. Did you have any such agreement at any other time that you recall?

A. No. However, I hadn't had any conversation with Mr. Crenshaw regarding the rent.

### Cross-Examination

By Mr. Peterson:

Q. Do I understand that just you and your sister are occupying the apartment at this time?

A. Yes, we are.

Q. How many rooms are there in the apartment?

A. There is a large front room, kitchen, bedroom, bathroom or bath.

Q. How was the kitchen furnished when you entered as a tenant? What additional accommodations are there in there now? [77]



(Testimony of Leone Reeves.)

A. Electric refrigerator and electric stove.

Q. What kind of a refrigerator is it? Is it a General Electric?

A. I don't know. Then, there is an electric stove, table, chairs, cupboards and a small utility cupboard.

Q. Is there a sitting room? A. Yes.

Q. Living room? A. Yes.

Q. How is that furnished?

A. At the present there is a new couch, new end tables and a coffee table. There is a desk and two large chairs, lamps and the radio stand, magazine stands and the small pieces.

Q. Now, assuming that the maximum rental—I understand you are paying \$65 or \$75?

A. \$75.

Q. Assuming that the maximum rent here as authorized by the Rent Control is \$65, would you express an opinion that the additional services furnished here, the additional equipment installed would be \$10 a month?

The Court: Just a minute. The Court will on its own motion object to the question and sustain my own objection to it. Her opinion as to that makes no difference.

Mr. Peterson: Very well, I'll withdraw the question.

Q. (By Mr. Peterson): Is it a fact that at your request you received additional [78] furniture in the apartment after you moved in? A. Yes.

Q. I believe that included a new davenport and some other articles? A. Yes.

(Testimony of Leone Reeves.)

Q. Those were in addition to the regular rent?

A. I don't quite understand.

Q. Were they included in the regular rent?

A. They were put in after we had already rented the apartment.

Q. They were something extra?

A. They were extra.

The Court: The rent you paid before those new couches and other things were put in was the same, though, you paid \$75 rent for the apartment?

The Witness: \$75 rent.

The Court: When it was poorly furnished, just as you do now when it is newly furnished?

The Witness: It was not poorly furnished.

The Court: It was always furnished?

The Witness: Yes.

The Court: And you paid \$75 a month?

The Witness: Yes.

Q. (By Mr. Peterson): Was the original agreement of \$75 made with you or Miss Ketterer? [79]

A. I believe it was with Miss Ketterer's mother, Mrs. Ketterer.

Q. Is it a fact that when you came to the place, you stated to Mr. Crenshaw in substance, "I will pay \$75, providing you give me this additional equipment." Was anything said like that?

A. I had no conversation with him to that effect. However, when we asked (interrupted)——

The Court: Just a minute, you can't recite any conversation anyone else had with him. You can recite what you did.

(Testimony of Leone Reeves.)

A. I had no conversation with him.

Q. How did it happen this extra equipment was put in?

A. I asked him to put it in.

Q. And you said in substance, "If I take this apartment, I will pay" (interrupted)——

The Court: She testified at the time she moved in the apartment she had no conversation with Mr. Crenshaw, but at a later date she asked him to move some extra furniture in. You can ask when the conversation was and what it was, when it took place, but it didn't take place when she moved in.

Q. When did the conversation take place between yourself and the landlord about extra equipment?

A. It has been at various times since my occupancy.

Q. How soon after the occupancy, or how soon after that?

A. I would say part of the equipment was put in about a month after we moved in and from time to time we have asked for things and received them. [80]

Q. When did you request them?

A. We requested the end tables and coffee table and new couch, chest of drawers and some small articles, twin lamps.

Q. When was that?

A. I couldn't state the exact time. That has been at various times.

(Testimony of Leone Reeves.)

Q. Has your requesting and the furnishing of this extra equipment been a consideration for your remaining as a tenant?           A. No.

(Witness excused.)

Mr. Knowlton: Plaintiff will rest.

The Court: Very well, Court will stand in recess for 15 minutes so counsel may have an opportunity to confer.

(15-minute recess.)

The Court: Very well, the defense may proceed.

B. M. CRENSHAW

Defendant, called as witness in his own behalf, having previously been sworn, testified as follows:

Direct Examination

By Mr. Peterson:

Q. Your name is B. M. Crenshaw?

A. Yes, sir.

Q. You are the defendant in this action?

A. Yes, sir. [81]

Q. Mr. Crenshaw, you have heard the testimony here of the witnesses this afternoon, a number of your tenants, have you not?           A. Yes, sir.

Q. Now, with reference to the apartment occupied by R. G. Martin, you heard Mr. Martin's testimony?           A. Yes, sir.



(Testimony of B. M. Crenshaw.)

Q. Has he been an occupant of your housing accommodation there at Bozeman?

A. Yes, sir.

Q. Which apartment did he occupy?

A. He occupies No. 7 at the present time.

Q. You rent that apartment to him?

A. Yes, sir.

Q. And were there any extras in connection with that apartment in addition to the regular furnishings?

A. He asked for double-decked bed for the two children and I have it in the hall to put in when I get home.

Q. As a matter of fact, how much have you collected from him, if you know?

A. I would have to figure it up, he is behind two or three months.

Q. Have you threatened or ordered him out or attempted to evict him?

A. I never have, in the 10 years I have been in there, threatened [82] to evict anyone.

Q. So far as your charge for that apartment is concerned, Mr. Crenshaw, have you acted in good faith to the rental area authorities and also to your tenants?

Mr. Knowlton: Object to the question because it calls for a conclusion of the witness.

The Court: Read the question.

(Question read back by the reporter.)

The Court: Yes, that is a matter for the Court to

(Testimony of B. M. Crenshaw.)

decide whether or not he is acting in good faith, but he can tell the circumstances under which he did act, from which the Court may or may not draw the conclusion.

Q. Very well, your honor. What is the status of the relationship of debtor and creditor between yourself and the tenant at this time, if you know?

A. About three months behind.

Q. For that apartment, at his request, have you furnished any extras?

A. When the other tenant moved out the first of April, I had to put in davenports, rugs, beds, and different things.

Q. You say the first of April. That is the first of April, 1949?

A. Yes, Mr. Crudy moved out when the old law went out.

Q. For these extras how much did you charge him?

A. I am charging him \$65 a month at the present time. [83]

Q. How much for the extras? How much did you charge over and above the regular rental, if you charged anything for these special furnishings?

A. I was collecting \$42.50 from Crudy. I put in the extra furniture and all that and I am getting \$65 for it now, that is, when he pays.

Q. How about 9?

A. He moved out of 9 into this one.

Q. Were there any extra furnishings for number 9?

(Testimony of B. M. Crenshaw.)

A. I wouldn't know how to remember, that is too far back.

Q. Do you know how much you charged him for number 9?      A. I think it was \$75.

Q. How was that apartment furnished?

A. It had a davenport, rug and bed and those things you put in a bedroom.

Q. How long was he in number 9?

A. I wouldn't know.

Q. Was he in there from about December 1 to March 1st?

A. He moved along in the fall into one apartment and he stayed until he got one of the others, and then he moved down there. Then, he liked number 7, so he moved over in 7.

Q. Did you ever order him out for not paying rent?      A. No, sir.

Q. Did you furnish him with all the accommodations which he requested? [84]      A. Yes, sir.

Q. Did you hear the testimony of Major Konecki?      A. Yes, sir.

Q. Which apartment does he occupy?

A. Number 14.

Q. What does he pay?      A. He pays \$75.

Q. Did you hear the testimony of the Major when he said at his request, you furnished him with certain furniture?      A. Yes, sir.

Q. What was that?

A. Davenport, rugs, built extra built-in cupboards, coffee tables, a big mirror, anything that he would ask for, he got it.

(Testimony of B. M. Crenshaw.)

Q. And was a part of your charge of \$75 for this additional service?

A. Everything, yes, sir.

Q. How much would you say for the additions; how much extra per month was included in that \$75, if you know.

A. I didn't know what the area rent was until the day before yesterday.

Q. Would you say it was as much as \$25 additional? A. It was worth more than that.

Q. How much more?

A. I wouldn't know, \$5 or \$10. [85]

Q. How much did you pay for these articles you put in there at his request?

A. Somewhere like \$350.

Q. Did you hear the testimony of Kathay Davis?

A. Yes, sir.

Q. Which apartment does she occupy?

A. 21.

Q. Did you give her any extra consideration in the way of furnishings in her apartment?

A. I had a hired man to clean her rug.

Mr. Knowlton: I didn't get that.

A. I had a hired man to clean the rug.

Q. Anything else? A. That is about all.

Q. You heard the testimony of the witness, Miss Reeves, who occupies 24? A. Yes, sir.

Q. According to the exhibit attached to the complaint, it shows there are two occupants there, L.



(Testimony of B. M. Crenshaw.)

Reeves and L. Ketterer. The testimony of Miss Reeves was to the effect that Miss Ketterer had moved out. What is the charge for that apartment?      A. \$75.

Q. Was there any extra furniture you put in a part of that \$75.

A. At her request, I put in a new davenport, coffee tables, [86] end tables, an extra chiffonier, or whatever you call them with those five drawers in them; and I forget what else.

Q. Was the \$75 which you charged for that apartment of Miss Reeves', was any part of that for additional services you rendered?

A. Yes, sir.

Q. How much?      A. \$10.00.

Q. Calling your attention to Apartment 8 of your apartment house, Mr. Crenshaw. There is evidence here that was occupied by W. H. Westfall, is that a fact?      A. Yes, sir.

Q. What charge was made for that?

A. \$75.

Q. Was it collected?      A. Yes, sir.

Q. Is that apartment similar to the other apartment?      A. Those 18 in there are all the same.

Q. Was anything extra furnished to Westfall as part of the consideration for the \$75 rent?

A. I had to get some extra dressers and a bed for the extra person.

Q. Describe that in detail.

A. He was there only about five weeks. They was short tenants.

(Testimony of B. M. Crenshaw.)

Q. Did you move any of your stuff out and put his stuff in? [87]

A. I moved it all in, none out.

Q. And for that payment you made an extra charge, or for that service? A. Yes, sir.

Q. How much was the value of that?

A. That would run about \$15.

Q. Calling your attention, Mr. Crenshaw to Apartment number 20, which it is alleged was occupied during the period on question by V. Cameron, what was the charge for that apartment?

A. \$75.

Q. Was there anything extra put in there as part of the consideration?

A. He just wanted it indefinitely. He didn't know whether he wanted it for a month or five weeks or six weeks.

Q. What did you rent it to him, by the week or month?

A. It was rented for \$75 a month or two and a half a day, anyway he took it.

Q. Apartment No. 17, I think there is no evidence here in the case, except possibly what was gotten from you on cross-examination under the statute. R. H. Henke, was he your tenant in 17?

A. He is the same one as mentioned in the other suit.

Q. What did you collect from him?

A. \$55 a month.

Q. What was that for? [88]

(Testimony of B. M. Crenshaw.)

A. Rent and storage of the furniture. I had to take my stuff out and put in his davenport and other stuff just like I mentioned yesterday.

Q. That transaction called for removing your furniture and putting in his? A. Yes, sir.

Q. What inconvenience were you put to, or expense in the way of taking that furniture out and storing it? Where do you store it?

A. I had to take it out myself.

Q. Where is it stored?

A. In the trunk room.

Q. Is that space which is an expense to you?

A. It is worth something.

Q. How much?

A. I get the same rate as they do in the storage houses.

Q. Do you feel that the service and charges and treatment that you gave to these tenants were fair and equitable, Mr. Crenshaw? A. Yes, sir.

Q. Has it been your policy or your intention throughout your transactions as a landlord during the period when the rent law has been in effect to abide by the regulations?

A. Just as far as I possibly could.

Q. Have you endeavored to do that? [89]

A. Yes, sir.

Q. Are you endeavoring to do it now?

A. I am.

Q. I understood you to say you had filed something like 41 petitions on form D-1 for an adjustment of rents on the property in question?

(Testimony of B. M. Crenshaw.)

A. Yes, sir.

Q. Upon the final determination of these matters, will you abide, do you intend to abide by the orders made? A. I will.

Q. Will you act in good faith? A. Yes, sir.

Mr. Peterson: That is all.

Cross-Examination

By Mr. Knowlton:

Q. Mr. Crenshaw, have you ever advised any tenant in connection with these apartments that you intend to go back to those rents, or advised them their rent will be any less than they paid last month?

A. I can't give them any advice until I get the papers back.

Q. In other words, until you get those back from the office, you intend to charge just exactly what you have been charging?

A. I am going to charge just what he says.

Q. Who says? [90]

A. The applications when they come back. If they say \$25 a month, that is what I will charge.

Q. Suppose they don't come back until the 15th of next month, how much will it be the first?

A. It will be the same as today, I don't intend to change them. The order says seven days. They out to be back by the first.

Q. You mean if you don't get the orders back by the first of the month giving you the increases which you think you are entitled to, you intend to



(Testimony of B. M. Crenshaw.)

charge Mr. Konecki the same as you have been charging him?

Mr. Bunker: Objected to as calling for an opinion of the witness, not within the province of the witness.

The Court: Overruled.

Q. Do you intend to charge Mr. Konecki \$75 next month in the event you don't get your order by that time?

A. I will have to. I don't know what to charge. If I don't have the amount to charge, how can I charge anything else?

Q. In connection with the various services and facilities you have granted tenants in connection with their use and occupancy of the various units, you, of course, established your own rates for those services, didn't you?

A. Who else would if I didn't?

Q. Without any regard to an application to the rent office?

A. I couldn't get anything back from the office.

Q. Do you intend to charge for services above any order the Rent Director might make in the future?

A. No, sir, I told you that a dozen times.

Q. If he sets Apartment 9 at \$50 a month, do you intend to rent it for \$50 and \$10 more for the cot you put in there for the tenant's baby?

A. No, sir, it will be set by the Director's order.

Q. Why did you do it before?

(Testimony of B. M. Crenshaw.)

A. You have to get money for upkeep.

Q. You, yourself, never bothered to find out what your rents were?

A. My lawyer has dozens of times?

Q. I asked you if you have, sir?

A. No, sir.

Q. You have made no inquiry at the office since you first registered?      A. Not me.

Q. You have rented your apartments for much more in many cases than you first registered?

A. Yes, sure, I ain't going to lie about it, it is of record.

Q. But you again deny you ever received any of these orders, is that correct?

A. I have never received them. I have seen copies of some of them.

Q. In a couple of cases? [92]

A. I saw two. When I seen that copy, it dumb-founded me. I didn't know they could issue an order without my consent.

Q. Even though you received no orders, for quite awhile you raised your rents over and above what you registered them at?

A. We agreed. I didn't think anybody would object if you and I agreed. We traded horses there and anyone else would.

Q. As a matter of fact, you have never broken down with the tenants the charge for rent and the charges for the extra facilities you say you gave them?

(Testimony of B. M. Crenshaw.)

A. One would want one thing and another another thing.

Q. Just give me a case where you agreed with your tenant that the apartment was \$50 and the service \$10.

A. Henke there. He was paying \$50. He wanted this extra, and when he got it, I told him it would be \$5 extra.

Q. How about the others?

A. Some of the others were practically the same way. With 41 of them, I can't keep track of them all.

Q. As a matter of fact, isn't it a fact that you offered a lot of those apartments for \$75 across the board?

A. Yes, sir.

Q. When you so rented them, you made no differential between services and rent?

A. There is no differential there when the furniture is all put in.

Q. When you first registered the property, did you ever register [93] any of them for \$75?

A. Not at that time, that was three years ago.

Q. It has been your practice in most apartments to charge \$75?

A. Whenever I put furniture in there and they wanted it and I don't know what the rent is, I am going to get it. I have 31 \$75's and 10 \$55's. That is for service. I don't stutter when I tell them what it is. I don't force them to pay it. In fact, that is the first question I will ask you if you come in

(Testimony of B. M. Crenshaw.)

wanting an apartment. I will say, "Mr. Knowlton, can you afford \$75 for an apartment?" I have them on the waiting list. Some say "No, have you got one for \$55?" Why should I talk there in my apartment and talk different in the courtroom. That is what I want you to know and what I want the Rent Director to know. Why don't they come in and tell me, come in there like whitemen and not run to the doors disturbing the peace of my tenants. I am right on top of them.

Q. Didn't this alleged disturbance occur shortly after, around June, 1946?

A. Somewhere along in there.

Q. Isn't that shortly after the time both you and Mr. Bunker requested the rent office to inspect your property?

A. I wouldn't know all that. That is too far back for me.

Q. Well, you heard Mr. Bunker testify in connection with the other matter that he asked the Rent Director to inspect the [94] property?

A. Yes, he asked him all the time.

Q. Were you present when he asked them? Did you know he asked them?

A. One time I was in his office.

Q. Was that the time when you were up there registering your property that you wanted someone to inspect them?

A. That was when we first registered.

Q. Didn't you, at that time, ask to have them inspected?



(Testimony of B. M. Crenshaw.)

A. I told them these prices couldn't prevail forever and we wanted them adjusted.

Q. Then, when the inspectors came out to look at your apartment, you threw them out?

A. I didn't know they were inspectors. They might have been drunks. When this woman told them to get out of there, she didn't want them bothering her, that is when Crenshaw took hold, and he will do it again. Listen, Mr. Knowlton, I am running that apartment. That apartment is mine. I have some of the best tenants in the United States in those apartments. Crenshaw will give his life for them. He isn't going to have drunks knocking on doors. If they open the door and say, "get out," he will put them out.

Q. Are you claiming those gentlemen there were intoxicated?

A. No, I wouldn't know whether they was or not. When the woman told them to get out, that is when I went back to my [95] apartment to get the stuff to put them out, the stuff to prepare to put them out. When two double up, I am all set. I can handle one pretty good, but when two double up, I am going to be prepared.

Q. You say you are running that apartment, you are the owner of it practically speaking?

A. Yes, sir.

Q. You are going to run it the way you want to?

A. That much of it. I have done told you I was going to comply with this new rent directive we

(Testimony of B. M. Crenshaw.)

get, these new applications. These are the first ones I ever had, the first ones ever presented to me to be signed. If he says one apartment is one price and one another and one another, and all three adjoin, that is what I am going to stand by for the next nine months until this is over with. Those 18 apartments in the gym, there isn't a quarter of an inch difference in them. There might be some little difference in the value of this furniture or that. I have a waiting list of my former tenants for these apartments. I got a letter day before yesterday wanting an apartment, wants it when it is available. They said we will take a bachelor girl apartment. I have a family of four in a bachelor apartment right now waiting for a ground floor apartment. I don't take anybody on the ground floor unless they got children. If they have 14 children, I will give them rent free.

Q. How many people with 14 children have you rented your [96] apartments to?

A. Not one. There is 14 in my family. That is the reason I will give them rent free, and I will help to feed them and clothe them, too.

Court: Did I understand you to say you have these apartments for \$75 rent, that is what you charge for them?

Witness: Yes, sir.

Court: You don't consider any extras, anything else? It is \$75 a month for those apartments?

Witness: After these things go in there.

(Testimony of B. M. Crenshaw.)

Court: That is when you charge \$75?

Witness: Yes, sir.

Court: Let's talk about Apartment number 24. You charge \$75 a month rent for that?

Witness: Yes, sir.

Court: You put in a new couch, some dressers and one thing and another, and if they want anything more, they will get it and you will charge them some more money?

Witness: No, sir.

Court: Why not?

Witness: That is as high as I will go. If they want more than that price, they will not get it. I am not going to charge this one here \$80—your Honor, from 6 to 28, see, there is 18 apartments in there. Over here in this corner there is three with no windows in them. They go for \$35 a month. That [97] is one that Brother Akin is in. I charge him \$35. These others are all \$75. There is no difference. I laid them out myself.

Court: They are all furnished apartments that you rent for \$75 a month, is that right?

Witness: Yes, sir.

Court: When you rented Apartment number 24 to Miss Reeves and Miss Ketterer, the rent was \$75 a month, wasn't it?

Witness: No, it was \$65 and they requested this extra furniture. I says, "I will put the extra furniture in and I will rent it for \$75."

Court: Your testimony, then, now is that you rented it for \$65 a month?

(Testimony of B. M. Crenshaw.)

Witness: At that time.

Court: At the time Miss Reeves moved into the apartment, it was \$65 a month?

Witness: Yes, I gave them extra stuff and then charged them \$75.

Court: Wasn't it a furnished apartment when you rented it for \$65?

Witness: It was. I told them it was furnished, but it wasn't the best, and if they requested any of this other, I would put it in.

Court: It was a furnished apartment when you rented it to Miss Reeves and Miss Ketterer, was it?

Witness: Yes, sir.

Court: You rented it for \$65 at that time?

Witness: Yes, sir.

Court: You put some more furniture in it and charged \$75?

Witness: Yes, sir.

Court: When did you start charging \$75?

Witness: About two months afterwards.

Court: Then, she was wrong when she testified it was \$75 from the start?

Witness: She must have been.

Court: With reference to Apartment 14, was that \$75 right from the start?

Witness: Yes, sir, that was \$75.

Court: And so when did you put the new rug in there?

Witness: That has been quite awhile ago, about six or eight months ago. The new davenport was last year.



(Testimony of B. M. Crenshaw.)

Court: The new rug had nothing to do with you charging \$75 a month rent for it, did it? That was put there after you had been charging \$75 a month rent for sometime, isn't that true?

Witness: I told him I would put it in when I got to it.

Court: It was a furnished apartment, wasn't it?

Witness: It wasn't the best.

Court: You are going to have to re-furnish all the apartments as time goes on? [99]

Witness: Yes.

Court: You are going to have to do that as time goes on. Every time you do that, are you going to raise the rent?

Witness: No, sir. I want to get enough out to buy stuff when this wears out.

Court: With reference to Mr. Martin in Apartment 9, that was a furnished apartment when you rented it to him?

Witness: It wasn't the best in the world.

Court: But you charged him \$75 a month for it, didn't you?

Witness: I am quite sure I did.

Court: So, the rent you charged didn't have anything to do with extra service, did it?

Witness: Not with number 9.

Court: With reference to Miss Davis' apartment, that was a furnished apartment?

Witness: Yes, sir.

Court: You charged her \$75, didn't you?

(Testimony of B. M. Crenshaw.)

Witness: Yes.

Court: There wasn't anything you added later that caused you to raise the rent?

Witness: I didn't raise it.

Court: No, it stayed \$75 all the time?

Witness: That's right.

Court: Your rent for the furnished apartments is \$75? [100]

Witness: Yes, it is now.

Court: And for sometime back?

Witness: Yes, sir.

Court: How long back?

Witness: I don't know, you would have to look at the receipts.

Court: You have talked about your willingness to abide by the orders of the Rent Director, is that right?

Witness: Yes, sir.

Court: Do you now know there is an order covering Apartment 7 fixing the maximum rent at \$42.50 per month?

Witness: I didn't know that was ordered.

Court: Do you now know it? Do you have the order here?

Mr. Knowlton: That was on stipulation.

Court: It has been stipulated by counsel that it was ordered.

Witness: That is what I have been collecting.

Court: \$42.50 for 7?

Witness: Yes, sir.

(Testimony of B. M. Crenshaw.)

Court: I thought you were charging Mr. Martin \$65 in there now.

Witness: Your honor, Mr. Crudy, I asked him to move a year before he did.

Court: Are you charging Mr. Martin \$65 a month for Apartment 7? [101]

Witness: Yes, sir.

Court: Do you understand there is an order that puts a maximum rent on that of \$42.50?

Witness: Yes sir.

Court: You now intend to charge \$42.50, is that right?

Witness: No. May I explain?

Court: Did you say "No"? Just answer my question. You can explain afterwards. Answer my question. Do you now intend to charge \$42.50 for that apartment?

Witness: No, sir.

Court: Why not?

Witness: Because When Crudy moved out, his mother took the bed, rug, and davenport. He was in there for three years. I took that over from his mother when he was down in the South Pacific.

Court: Does the order covering Apartment 7 cover it as a furnished apartment?

Mr. Bunker: If it does, it was a mistake.

Court: All right, let's proceed to another apartment. Let's take apartment 24.

Witness: You passed on that. That is the Reeves apartment.

(Testimony of B. M. Crenshaw.)

Court: Tell me this: Apartment 24 is a furnished apartment?

Witness: Yes, sir. [102]

Court: Do you now know there is an order fixing the maximum rent on that furnished apartment at \$65 a month?

Witness: Yes, sir.

Court: Do you now intend to just charge \$65?

Witness: No, I am charging \$75.

Court: You don't intend to charge that now, do you?

Witness: Until the Rent Director changes it.

Court: Until he make the other order, you don't intend to follow the order that is now in force?

Witness: If I have to, that is what I will do.

Court: That is just what the Court is determining here; and from the conversation, the testimony you are giving, I will advise counsel that if he will prepare a temporary restraining order pending the final determination of this case, I will sign it.

Mr. Peterson: May I ask one question?

Court: Yes.

Mr. Peterson: Mr. Crenshaw, will you abide by the advice of your counsel as to what the maximum charges shall be by you on these apartments until an adjustment is made?

Witness: If somebody, if the Judge or my counsel will give me a list of 1 to 41, if this one is \$5 and this one is \$10, and the Court, if he says that is what you pay, I will start and refund the over-



(Testimony of B. M. Crenshaw.)

charge and abide by that order. If I can get a list. I have to have something to work from. [103]

Court: There is a list in this case, and your attorney will give it to you. There is a list here, and the order is that you abide by that.

Witness: I will give you my word of honor, I will do that.

Court: In the meantime, you have got an appeal for a reconsideration of what those rents shall be. What is it? You have filed petitions for reconsiderations of those, but pending that, you are bound by the orders that are now in force.

Witness: Absolutely.

Court: And those orders fix these rents at various amounts.

Mr. Bunker: May it please the Court, may I say this: There are 10 or 11 new apartments.

Witness: All from 28 to 41 is new. From 28.

Mr. Bunker. There are 13. They are not regularly registered, your Honor. They have been made out of single rooms, made into 4-room apartments with a bath, and they are as good as the best apartments in the house, and some are better, and we have no price on those. What do we do?

Court: Does the Act require to register those?

Mr. Bunker: Perhaps counsel will tell us.

Mr. Knowlton: I don't know what the situation is. If what Mr. Crenshaw did in connection with the apartments that he has mentioned on the upper floor was to convert them so [104] that they resulted

(Testimony of B. M. Crenshaw.)

in additional housing accommodations, why there is a possibility as to those apartments, he might not be subject to control. I have never been there.

Court: It ought to be easier to get there and determine that. I am not worried about those. I am going to say this: that if it is necessary, I will issue a restraining order. I don't think it is necessary. Counsel assures me from this point on the orders will be followed, at any rate, so I will accept that, and I don't think it is necessary to issue a temporary restraining order at this point.

Witness: I will give you my honor, too.

Court: Continue with any further questions.

Mr. Peterson: That is all.

Court: Is there any other evidence?

Mr. Knowlton: No.

Court: Very well, I think you can file your proposed findings and conclusions in this case simultaneously with the other case. It involves generally the same kind of work.

Mr. Peterson: I was going to suggest that we might have five days longer on this case than the other case. I believe your Honor granted us 15 days on the first case.

Court: Very well, 20 days for this. You will file simultaneous briefs, that is, within 20 days each of you must file your proposed findings and memorandum, and you will have 10 days after the service on you to submit further memoranda to [105] the Court. Very well, file your briefs and proposed

findings, and the Court will consider the matter. Court will stand in recess until the further business of the Court requires it to again resume. [106]

### Reporter's Certificate

United States of America,  
State of Montana—ss.

I, John J. Parker, do hereby certify that I am the official Court Reporter in the above entitled court; that the foregoing transcript is a full, true and correct transcript of the proceedings had and the testimony taken in the cause of United States of America, Plaintiff, vs. B. M. Crenshaw, defendant, being Civil Cause No. 444 in the Helena Division of said Court, tried before the Honorable W. D. Murray, United States District Judge, sitting without a jury, at Butte, Montana, on the 26th and 28th days of September, 1949.

Dated this 12th day of April, 1950.

JOHN J. PARKER,  
Official Court Reporter.

[Endorsed]: Filed April 15, 1950.

CLERK'S CERTIFICATE TO TRANSCRIPT  
OF RECORD

United States of America,  
District of Montana—ss.

I, H. H. Walker, Clerk of the United States District Court for the District of Montana, do hereby certify and return to The Honorable The United States Court of Appeals for the Ninth Circuit, that the foregoing two volumes consisting of 116 pages, numbered consecutively from 1 to 116 inclusive, constitute a full, true and correct transcript of all portions of the record in case No. 444, United States of America vs. B. M. Crenshaw, required to be incorporated therein by designation of the appellant, as the record on appeal therein, as appears from the original records and files of said court in my custody as such Clerk.

I further certify that the costs of said transcript amount to the sum of Eleven and 90/100 Dollars (\$11.90) and have been paid by the appellant.

Witness my hand and the seal of said court at Helena, Montana, this 26th day of June, A. D. 1950.

/s/ H. H. WALKER,

Clerk U. S. District Court,  
District of Montana.



[Endorsed]: No. 12602. United States Court of Appeals for the Ninth Circuit. B. M. Crenshaw, Appellant, vs. United States of America, Appellee. Transcript of Record. Appeal from the United States District Court for the District of Montana.

Filed July 10, 1950.

/s/ PAUL P. O'BRIEN,  
Clerk of the United States Court of Appeals for  
the Ninth Circuit.

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In the United States Circuit Court of Appeals  
For the Ninth Circuit

12602

B. M. CRENSHAW, (Defendant),  
Appellant,

vs.

UNITED STATES OF AMERICA,  
Appellee.

STATEMENT OF POINTS UPON WHICH  
APPELLANT WILL RELY AND DESIGNATION  
OF RECORD FOR CONSIDERATION ON APPEAL

To the Clerk of the Above-entitled Circuit Court  
of Appeals, and to the Attorney for the United  
States of America:

You and each of you will please take notice that  
B. M. Crenshaw, the Appellant in the above-entitled

action will rely on the following points in the Appeal in the above-entitled case, to-wit:

(1) That the Housing and Rent Act of 1947 (50 U.S.C.A. 1881-1906) and P. L. 31, Eighty-first Congress, first Session and particularly the Local option provisions of the Act, 204 (J) 1, 2, and 3, is unconstitutional and void.

(2) That the trial Court erred in denying Appellant's motion for dismissal upon the grounds that the Court had no Jurisdiction.

(3) That the evidence is insufficient to sustain the trial Courts' findings and the judgment therein.

(4) The Trial Court erred in finding that the Appellant, Crenshaw, as landlord, had received notice of rent orders establishing maximum rent, upon which the judgment was passed in that there was lack of definite proof that any authorized personnel of the Bozeman Rent Office or any other authorized Rent Office and having mailed such notices, and there was testimony of Appellant that notice of rent orders were to be sent to his attorney and that both, appellant and his attorney, denied that either had received notice of rent orders from any rent office.

(5) The Trial Court erred in refusing to recognize contracts for extra service and extra equipment provided at tenants requests over and above those required by the rental orders.

(6) That refusal to recognize such contracts for extra service and equipment were an impairment of

of the right to contract and the judgment of the Trial Court were passed upon unconstitutional provisions of the law and orders thereunder.

That the Record, upon which this Appellant is taken is the record of pleadings and evidence, orders, rulings, and findings, certified and transmitted by the Clerk of the United States District Court for the District of Montana, and the Exhibits used in the case and transmitted by order of the Judge of said Court.

/s/ E. F. BUNKER,

/s/ E. A. PETERSON,

Attorneys for Appellant.

Affidavit of Service by Mail attached.

[Endorsed]: Filed July 10, 1950.